Legislative
Assembly
of Ontario

Assemblée
législative
de l'Ontario

Official Report of Debates (Hansard)

JP-29

Journal des débats (Hansard)

JP-29

Standing Committee on Justice Policy

Comité permanent de la justice

Safer Ontario Act, 2017

Loi de 2017
pour plus de sécurité en Ontario

2nd Session
41st Parliament

Thursday 22 February 2018

2e session
41e législature

Jeudi 22 février 2018

Chair: Shafiq Qaadri
Clerk: Christopher Tyrell

Président : Shafiq Qaadri
Greffier : Christopher Tyrell

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Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

ISSN 1710-9442

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Thursday 22 February 2018

Jeudi 22 février 2018

The committee met at 0900 in room 151.

SAFER ONTARIO ACT, 2017
LOI DE 2017 POUR PLUS DE SÉCURITÉ EN ONTARIO

Consideration of the following bill:

Bill 175, An Act to implement measures with respect to policing, coroners and forensic laboratories and to enact, amend or repeal certain other statutes and revoke a regulation / Projet de loi 175, Loi mettant en oeuvre des mesures concernant les services policiers, les coroners et les laboratoires médico-légaux et édictant, modifiant ou abrogeant certaines autres lois et abrogeant un règlement.

The Chair (Mr. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice.

Colleagues, welcome to the Standing Committee on Justice Policy. As you know, we have a number of presentations. I'll run through them in a moment.

We have two late requests, meaning their requests to appear before the committee occurred after the deadline, which was last Friday at 10 a.m. Is it the will of the committee that we include them next week, should we have time? I'll take that as a yes.

I'll now move to our presenters. Just for the benefit of all, you'll have five minutes to make an opening address, after which you'll be asked questions in three-minute rotations by each party. As always, the Chair will enforce that with military precision.

POLICE ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I invite Mr. Bruce Chapman, president of the Police Association of Ontario. Please come forward, Mr. Chapman.

Once again, on behalf of the committee and all members of Parliament, we thank you for the policing work that you do on a day-to-day basis.

Please be seated and introduce yourselves. Your official five minutes begin now.

Mr. Bruce Chapman: Good morning, everyone. My name is Bruce Chapman. I am the president of the Police Association of Ontario. Joining me is Michael Duffy, counsel for the PAO.

The PAO represents 50 of Ontario's local police associations and over 18,000 sworn and civilian members, and works hand in hand with the Ontario Provincial Police Association and Toronto Police Association on behalf of all of our members. I concur with the statements that they will provide to you.

I want to thank the committee for having me here today to talk about policing and Bill 175. I could start with facts and figures, but I'll start with a story instead.

At the London 2012 Olympic Games, extra police were required to handle protests, stop terrorist threats and provide security. G4S, one of the world's largest private security firms, was contracted to provide extra security. In short, the company failed to deliver. The government required 23,700 security guards, more than double the estimate. The security contract cost £553 million. By July 11, 16 days before the games began, G4S admitted to the British government that they would be unable to deliver the additional required security. British military troops were required to fill the gap. The numbers were in the thousands. In short, the effort was a financial disaster for everyone involved.

Since the British government implemented austerity measures and began moving policing roles away from the streets and into the boardroom, officer numbers are at their lowest in decades and violent crime is on the rise—up 14% last year. Knife and gun crimes have both increased by 20%. The British experiment with private policing has failed and its taxpayers have been left to pick up the pieces. You would think we would learn from the mistakes. Unfortunately, in reviewing Bill 175, it appears we haven't.

Bill 175 offers municipalities a path to contracting policing duties and other important public safety responsibilities to private services. Some of those could be for-profit corporations. Not only are the financial risks huge, but this is also dangerous and not in the spirit of public policing. Respectfully, we can't trust security guards to perform critical duties that help protect the public and maintain law and order. Ontario's safety should not be for sale. I encourage all members here to speak to their constituents about this issue. Privatizing police is something Ontarians are not willing to try.

In a recent survey of 2,000 Ontarians, only 6% indicated they were interested in privatizing police services; 92% indicated they feel safe or very safe in their communities.

Our police do their duty, and they do it well. We need to keep our police public to keep them effective and

active—so we can continue to do our job and protect the safety of all Ontarians.

Private security providers are only accountable to stakeholders and profits, not the people. Ontarians feel comfortable with and confident in their police services, who currently enjoy an 82% approval rating. A move to privatizing policing would be devastating to the support of the communities we protect.

In 2015, Public Safety Canada identified a failure to ensure private security oversight in Canada, resulting in an inability to ensure they are not vulnerable to organized crime and unethical and illegal behaviour. Further, there was no evidence of cost savings when privatizing or outsourcing police services.

Ontario's professional police believe in transparency, increased public trust and appropriate oversight. This bill hamstrings those efforts by reducing public police services.

I trust my fellow officers, and I know that we welcome the opportunity to build public trust and accountability in law enforcement. But changes must be reasonable. The government is hurting our ability to keep Ontario safe by handcuffing police while we should be handcuffing criminals.

The province has taken steps of suspending officers without pay for serious criminal offences not committed in their duty, and the bill implements increased training for municipal boards. But privatizing police service functions won't save taxpayers money, won't improve public safety and won't protect human rights. The move towards private services is based on a false narrative about the sustainability of policing.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Bruce Chapman: The fact is that policing costs at the municipal level are squarely in line with other municipal budgets. In fact, most municipalities have seen policing costs grow less than recreation, transportation and environmental services. The chronic underfunding of social services, like mental health and addictions programs, means police are doing more.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Chapman, for your introductory remarks.

We'll now proceed to three-minute question rotations, with the Progressive Conservative Party, beginning with Ms. Scott.

Ms. Laurie Scott: Thank you very much for being here today, Bruce, and for your association's great work on the ground in policing.

We feel that Bill 175 has some very serious concerns. We expressed them when we were in second reading debate.

You make reference to a problem with crime in the UK. What do you see as real, on-the-ground impacts that this bill will have if it's passed as it is to Ontario—so, on-the-ground impacts in Ontario?

Mr. Bruce Chapman: The bill, as currently written, will allow for an increase in outsourcing privatization of police duties. That, in our opinion, will lead to two-tiered policing.

What's happening in the UK now is, those affluent communities that are able to afford increased policing—because they're not getting it with the current level, because of the decrease in officers with the 20% cut—are having two-tiered policing. So if you're an affluent neighbourhood, you hire your own police to do the job. However, there's no oversight, there's no accountability and there's no transparency of these private companies as compared to public policing.

Our fear is that this bill will lead to similar situations, where municipalities will be able to privatize or outsource those duties that are core police duties.

Ms. Laurie Scott: You brought up some staggering statistics from the UK of the increase in crime since they made these changes. What you've said, and what we see in the UK—Bill 175 is titled the Safer Ontario Act. Do you actually think that it's going to be safer for Ontario?

Mr. Bruce Chapman: Our fear is that this will make Ontario less safe by some of the changes that are implemented in the new Bill 175. That's taking away core police duties, core police functions in providing public policing for our communities.

Ms. Laurie Scott: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott.

We'll now proceed to the NDP: Ms. French.

Ms. Jennifer K. French: Welcome to Queen's Park. It's nice to see you bright and early.

Mr. Chapman, I wanted to let you further discuss some of the specifics around privatization, as you said, of core police duties and core police functions. What are some of the examples laid out in the bill, or that you are concerned about, and what would that look like in the community? Also, you said it won't increase human rights or increase public safety—if you could expand a bit on that.

Mr. Bruce Chapman: Again referring back to the UK model, by cutting 20% to 40% of their police services, they've seen the failures over the past 10 years of how the privatization of those has not saved money, has not improved public safety. In fact, crime rates are rising and solvency rates are falling.

In addition to that, they actually changed the reporting mechanisms in the UK so that they're not even being reported the way they were 10 years ago, because they're afraid of the staggering statistics that show the increase in crime.

0910

In Ontario, we've already done that by allowing the municipalities to privatize, or outsource, some of those police duties that have fallen under the realm of the police services. It now will allow—you won't have the oversight, you won't have the accountability and you won't have the transparency. Private enterprise is for-profit for their stakeholders, so by allowing an increase to that—the way to do it is civilianization and effective

efficiencies within the police services themselves, and that is currently being done.

Communications, court security and forensics identification are ones where they've civilianized positions that were once held by high-paying police officers and are now being performed by civilians under the direction of the police, and we are able to increase the efficiencies, working hand in hand.

Ms. Jennifer K. French: So just for clarification, if it's civilianization, then there is the opportunity for the public to file a complaint or seek accountability measures, whereas if it's privatized and in a for-profit, they won't have those avenues?

Mr. Bruce Chapman: Yes, and it falls under the realm of police management, so the chief and the police services board will hold those employees accountable, as they have done and they will continue to do in the current model.

Ms. Jennifer K. French: How much time?

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: Okay. We had talked at length during the debate on this bill about the labour issues in this. Do you see union-busting tucked into this bill?

Mr. Bruce Chapman: Yes. I think that a prime example of what you would call union-busting is that you're going to have less police association members and less members that are protected under a collective agreement. The government introduced the fair Ontario workplaces bill, Bill 148, which protected workers' rights, and I feel that parts of this bill take away the rights of the employees of police associations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French, and welcome, Ms. Sandals, to the committee. Three minutes.

Mrs. Liz Sandals: Thank you very much for appearing today and for all the good work that your members are doing out in our communities across Ontario. I want to talk a little bit more about what you're calling privatization because certainly you've been speaking out very passionately about that. My understanding is that the current Police Services Act is actually much more permissive when it comes to privatizing various services than this current bill. I'm wondering why it is that you're speaking out against this bill, when it actually restricts privatization more. Is it the fact that a future government could change the regulations? What is it that's actually sort of tipped off the concern?

Mr. Bruce Chapman: It allows the municipalities the ability to outsource or contract out additional services that currently aren't covered under legislation. Regulation 386 allows for some of those duties. It's been done through court security and other methods. The overarching effects of the legislation will allow municipalities more flexibility to do that.

Tying into that is the example of the PEM grants, or the grant process, which were once used for 1,000 officers, throughout Ontario; the guns—PAVIS and TAVIS initiatives that now fall to the municipalities. To be able to provide any private company or any other entity for public safety to be able to use that money that once went to the police service directly, it would now go to the municipalities to decide how they want to spend that grant money. So it's taking it out of the hands of the police and putting it into the municipality to decide on public safety, on what they believe are public safety initiatives, and using that money that once went to put police on the street.

Mrs. Liz Sandals: So if I think of my local police, one of the things that they've used grants for recently has been actually—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mrs. Liz Sandals: —to fund a ride-along program with mental health workers. Is that the sort of thing you're concerned about? Because I thought that was really well-received.

Mr. Bruce Chapman: One of the great initiatives that is working is the partnership with mental health. When you decrease funding to mental health, the police are left to pick up the pieces. If you can work in partnerships with them—that's the police and mental health officials—then there is value to that. They are the experts in the field; we are the experts at providing security and protection for the citizens of Ontario.

Mrs. Liz Sandals: Because that's been my experience—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you, Mr. Chapman, for your deputation on behalf of the Police Association of Ontario.

ONTARIO PROVINCIAL POLICE ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I would now invite Mr. Jamieson and Mr. Cerasuolo, president and vice-president of the Ontario Provincial Police Association, the OPPA.

Please be seated. Welcome. Your remarks begin now.

Mr. Rob Jamieson: Good morning. Bon matin.

My name is Rob Jamieson. I'm the president of the Ontario Provincial Police Association. With me here today are Vice-President John Cerasuolo and Counsel Joanne Mulcahy.

Our association represents nearly 10,000 uniformed and civilian employees of the OPP. Today, we wish to add our voices to those of the PAO and the TPA and express our concerns regarding Bill 175 in its current form.

In addition to my remarks today, I wish to formally adopt the opinions expressed by Bruce Chapman of the PAO, from whom you've just heard, as well as the comments that will be made by Mike McCormack of the TPA following my address to you.

I will focus my remarks primarily on accommodation, disability and police discipline. We have crafted an extensive and detailed written submission, which will we leave with you. I believe you already have it.

We have already shared this document with MAG and MCSCS. While they say they have listened to our comments and concerns, we have seen nothing in writing that they have taken our suggestions seriously, let alone whether they intend to make substantive changes to the bill. So we are here today asking that you take a sober second thought about what this government is about to do.

The OPPA, the PAO and the TPA are all supportive of building stronger and safer communities in Ontario as well as creating effective and meaningful civilian oversight of police. Those laudable goals, however, must not come at the expense of public safety or officers' rights as workers in the province of Ontario.

This government has advanced important initiatives to ensure that employees are treated fairly in the workplace. It has worked hard to expand workplace protections, most recently with the passage of Bill 148.

Bill 175, however, sets police officers and police civilian members apart from the rest of Ontarians in terms of their employment rights and is entirely inconsistent with this government's positive approach to labour relations. Indeed, this bill is the complete opposite of what I would have expected from this government.

With regard to accommodation and disability, we are extremely troubled by section 115 of Bill 175, which subverts police officers' collective agreement rights and seeks to limit their entitlements under the Human Rights Code. The bill will permit police service boards to strip disabled police officers of their appointments and move them into civilian bargaining units. This can occur for permanent or temporary disabilities and regardless of whether or not the officer's medical restrictions are significant. Any police officer who cannot fulfill the essential duties of his or her position, no matter how briefly, can be impacted without recourse to their collective agreement rights.

By overriding our members' collective agreement rights, section 115 breaches our members' right to freedom of association granted under the charter. This is not something that I, members of the OPPA or, for that matter, the electorate of the province of Ontario would have expected to come from this Liberal government.

What's even more troubling about section 115 is that it is advanced by this government in bad faith. In the run-up to introducing Bill 175, the government convened a consultative process which included the police associations and the Ontario Association of Chiefs of Police. Through that process, an agreement was reached on this topic that this government committed to including in this legislation. It is clear now, however, that this government has resiled from that agreement and has chosen rather to attack collective bargaining rights. It has made a mockery of the consultative process. Section 115 must be changed to reflect this agreed-upon language.

Police discipline: While we wholeheartedly support independent prosecution and independent adjudication of all police discipline complaints, the new process envisioned by Bill 175 strips away almost every right a police officer has to due process and procedural fairness in the disciplinary system. For example, the right to disclosure of the prosecutor's case, something that is commonplace in other disciplinary regimes, does not exist under Bill 175.

Worse yet, an officer could be compelled to give disclosure to the prosecutor or could be compelled to testify. Officers could be subjected to heavy penalties without even an investigation. Officers may not even receive a hearing at a tribunal because the tribunal can create alternatives to adjudicative or adversarial procedures while still imposing the same range of significant penalties.

Even if the officer is able to have a hearing, the standard of proof the prosecution must meet is now being downgraded from one of clear and convincing evidence to that of a balance of probabilities.

0920

At the same time, the range of penalties is being expanded to include fines of up to $35,000.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Rob Jamieson: Even if officers leave the workplace through retirement or resignation, they still can be prosecuted for workplace misconduct. Firing employees, or former employees, for workplace misconduct is inconsistent with the hallmarks of a modern, progressive workplace and, I thought, would have run counter to the basic philosophy of this Liberal government.

In conclusion, Bill 175 is seriously flawed, undermines the collective bargaining rights of our members, and erodes the fairness of the disciplinary process. Without substantive amendments, we cannot support this bill.

In our detailed document, we have recommended a number of changes to the legislation that would achieve two goals: (1) ensuring oversight and accountability of officers; and (2) respecting the basic principles of fairness and due process.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Jamieson.

We now pass to Ms. French for three minutes.

Ms. Jennifer K. French: Thank you very much for coming today.

I find it interesting that the government is using section 115. It was Bill 115 that attacked my collective bargaining rights as a teacher and inspired me to get active. I can see that it has also inspired you to get active.

When you talk about stripping an officer of their appointment—it's not something I'm really familiar with. What does that mean? If they're stripped of an appointment, does that mean they're not a cop anymore, or not an officer? What does that mean?

Mr. Rob Jamieson: That's the way we see it. As we see it right now, it's rather personal. I don't mind sharing with this committee that one of the challenges with law enforcement, especially with presumptive legislation 163—all the things that we were behind Minister Flynn, and everything else—this legislation flies in the face of all of this progress around the stigma around mental

health and the disproportionate number of officers who are committing suicide, compared to that of the public, and so on and so forth.

To have an officer come forward and to be supported, with the stigma around mental health—the fact now that they are in the shadows wanting to get help but can't get help—so there's someone like me, who was diagnosed with post-traumatic stress disorder, as a result of doing my job of being a police officer, three years ago. So I take this very personally when I see this, because I know how it impacts individuals. I know how it impacts families.

To me, this really sets the foundation for the spirit of this whole piece of legislation: the fact that someone gets injured on the job. If I break my leg, and I know that in nine months' time, I'm going to be back to regular duties in my police cruiser, I don't think that anyone is going to look at me and say, "You know what, Jamieson? You're out of a job."

But what I am going to say is that if you get diagnosed with PTSD, you acquire a mental disability as a result of doing your job. There's no question that first responders have a high incidence of this. All of a sudden, now, under this legislation, I'm worried about coming forward because I'm worried about having my rights and my appointment stripped from me, with me put into a different bargaining unit or whatever.

I can tell you, when you're dealing with folks who are vulnerable, suicide, self-harm and harm to families are serious issues. I can tell you that it impacts our members significantly.

We are 100% opposed to this. I don't know why this has come forward. This is contrary to Bill 163 and all the progress. This has caused undue harm already—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Rob Jamieson: —to the people across this province who have seen this and who want to come forward for help but are absolutely petrified and terrified to do so because of the consequences.

Ms. Jennifer K. French: Are you worried that if officers feel they're going to be stripped of their appointment and don't come forward with PTSD to get a diagnosis, that then we're having more officers untreated on our streets, in our communities and in their homes?

Mr. Rob Jamieson: Absolutely; 100%. Let's be honest here. Mental health stigma is still there. It's a serious issue within the first responder community. It's specifically—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French.

Ms. Jennifer K. French: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. I hear your concerns. I echo your concerns, as a former nurse.

I do want to say thank you for your suggestions. I believe that the government has been taking progressive steps when it comes to mental health and first responders, with a number of legislative changes though the Ministry of Labour. But I do hear your comments. I believe that when we look at the clause-by-clause down the road, we will be looking at this piece as well.

So I just want to say thank you for your comments, and thank you to all your officers for keeping Ontario safe.

Mr. Rob Jamieson: If I could respond to that, I would say thank you.

I find it interesting that this is called the Safer Ontario Act, yet mental health is not mentioned at all within the act itself that I saw. I find it very interesting, when we're talking about mental health. This is a significant issue that needs to be addressed. You're calling it the Safer Ontario Act, and yet I've gone through it—there are hundreds and hundreds of pages—and I struggle to find where the words "mental health" and the commitment to mental health are. If we're all going to be stakeholders and partners in this, the police can't keep being the default.

We're here today to try to put some perspective on that. We have been putting these ideas forward for months, either through the FPAC committee—and some of the people who are in this room today are on that committee. We've raised these concerns and been continually disregarded. We have met with MAG, MCSCS. We've put all these papers forward. You have them. We need something back in writing. We need to tell our members, "You're going to be okay."

We're not against accountability. We're not against oversight. But what we're against specifically on the areas of accommodation and disability and some of the other issues that we're bringing up today—we cannot support this legislation.

The Chair (Mr. Shafiq Qaadri): We'll now move to the PC side. Mr. Romano.

Mr. Ross Romano: Thank you, gentlemen and ma'am. Welcome, John from Sault Ste. Marie; I just want to say hello.

Obviously, your positions as police officers are inherently dangerous. There are physical dangers any time you take down a suspect. There are mental health dangers given that you're dealing with situations—such as first responders at a highway traffic fatality or anything of the sort. So there are obviously inherent mental health and physical dangers. What kind of an impact do you think this will have on the level of service that officers provide, if this legislation passes, when they go to, let's say, a highway fatality or they need to take down a suspect in a high-risk situation?

Mr. Rob Jamieson: I'll answer quite candidly. I was a road sergeant up until a couple of years ago, before I became president. One of the last accidents that I went to was a 21-year-old girl who was decapitated. We had to arrest her cousin for impaired driving causing death. Those are images that most of you in this room—I know you were a nurse; you've admitted that, so you've seen some things. But the thing is, most people in society don't see that on a continual basis.

If you don't have officers who are healthy, who can come forward and feel that they're going to be support-

ed—if they come forward under this legislation, they're going to be out of a job, which is going to affect all kinds of things. Officers are proud to be police officers—men and women, more and more diversity within the ranks as well. We want to reflect the communities. People are proud to do what we do. But this really flies in the spirit of that.

I'm very concerned about the impact to communities. We need our officers to be healthy, and we need them to be supported.

We need this government to understand—it's amazing, because Minister Flynn has done so much positive work in this area. That's why I'm blown away by this. I'm astounded by this. To not support officers who want to come forward is—I have no words. I'm shocked; I truly am.

Mr. Ross Romano: I'm going to take this in a different direction, looking at the material that you've submitted today dealing with rights of officers, the nature of complaints and what can flow from that with respect to disclosures.

It's already difficult enough, I know, being an officer, especially after a charge is laid and you end up in court. Officers are criticized quite extensively by defence lawyers when they take the stand and look at trying to find ways to successfully prosecute a case.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Ross Romano: All the case law you need to understand and appreciate as an officer—how do you feel this legislation, this aspect, is going to impact your abilities moving forward?

Mr. Rob Jamieson: I'll defer to counsel.

Ms. Joanne Mulcahy: Basically, Bill 175, we acknowledge, has oversight provisions, but it erodes the rights of officers. So instead of officers carrying out their duties, they will be spending much more time in hearings, without rights.

The Chair (Mr. Shafiq Qaadri): Just before I pass the floor to Ms. French, I do need to have you identified, please.

Ms. Joanne Mulcahy: Joanne Mulcahy, counsel for the association.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Jamieson, and to your colleagues for your deputation on behalf of the OPPA.

I now move to our next presenters—actually, Ms. French, you have the floor. Go ahead.

Interjections.

Ms. Jennifer K. French: I'd be glad to have a second go-round.

The Chair (Mr. Shafiq Qaadri): Thank you. I'm not suitably caffeinated yet. I'll remember to do that momentarily.

Thank you for your deputation.

TORONTO POLICE ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Our next presenters are with the Toronto Police Association. Please come forward, Mr. McCormack and Mr. Brauti.

Welcome. As you've seen, your five-minute opening address begins now.

Mr. Mike McCormack: I'm Mike McCormack, president of the Toronto Police Association. This is our counsel, Peter Brauti. He will be addressing the committee on behalf of the Toronto Police Association.

Mr. Peter Brauti: I'm here to talk about oversight. To be clear, none of the associations are against oversight. The associations expressly recognize the importance of oversight. However, we are unanimously against oversight provisions that are unnecessary, can be easily abused and make Ontario less safe.

Here are some examples of problematic provisions in this act. These are just some of the many examples that we could point to. Section 33 of the act provides new fines of up to $50,000 for officers and imprisonment of up to one year for not co-operating with the SIU. This provision is completely unnecessary and is excessive in its penalty. We have continuously asked the drafters for examples of officers not co-operating with the SIU, and they have given us no examples. The new provision is a solution for a problem that doesn't exist.

0930

Besides, there are already existing penalties in the PSA for non-co-operation with the SIU. Officers who do not co-operate with a lawful SIU request can be charged with insubordination or neglect of duty. Everyone knows that the SIU can go to the police service or the OIPRD and have a charge laid for not co-operating with a lawful request from the SIU, and the officers can be reprimanded, lose pay, lose rank or be dismissed. That power has been around for years, yet there have been no efforts to charge or prosecute in that regard. That's because the reality is, there has been no lack of co-operation with SIU. The new provision should be eliminated.

Many of the new provisions actually create an unsafe Ontario. Traditionally, SIU interviews have taken place at police stations in the division where the incident took place. This allows officers to stay working in the division right up until the interview, come off the road, do the interview and then immediately return to the road to continue to service the public. Section 27 of the new act proposes that the SIU can choose the location of the interview. This is, without doubt, to allow the SIU to demand that interviews take place at SIU headquarters in Mississauga.

We know that SIU incidents usually involve six to 12 officers. The new provisions will take those six to 12 officers off the street and, in the case of Toronto, have them travel 90 minutes—for York, two to three hours; for the OPP, maybe four to 14 hours—to conduct these interviews. The act will take hundreds and hundreds of police hours away from the public while these officers are travelling to these interviews. This act and that provision will make the public less safe and will make officers less safe, because there will be less officers on the road as they travel to do these interviews.

Section 77 of the act allows for the discipline tribunal to get the investigative report before the hearing begins.

In other words, it will allow investigators to put their biased thoughts and conclusions before the tribunal before the officer is even brought forward to have his hearing heard. The investigative report often contains evidence which is inadmissible or may never even be attempted to be called at a hearing. The government has promised that this will not be in the legislation, but we have yet to see anything in writing.

Section 82 of the act allows for any number of intervenors to be parties at the discipline hearing of an individual officer. This includes not only special interest groups but also the complaint director who represents the investigative body. As a result, at an individual hearing for an officer, we could see a prosecutor, joined by the complainant, who is allowed to be a party, joined by two or three special interest groups who are now allowed to be a party, joined by the investigative body, who is allowed to be a party—all as adverse parties against the officer in his individual case. This is hardly a balanced proceeding. Adding the investigative body as a party does nothing other than add a biased party into the mix.

It's also important to note that in the vast majority of cases where the complainant has become a party, those cases have become virtually unmanageable as it is. Discipline cases for officers are now taking three to seven years to be completed in the current system. Allowing interest groups to intervene will make individual cases a prolonged sideshow about public policy, which has no place in an individual discipline case.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Peter Brauti: If we're serious about balance and fair reform for a safer Ontario, I'd encourage you to read the provisions of the act and ask yourself: Is this specific provision necessary? Can it be a source of abuse? Does it really make Ontario safer?

Finally, I would note that everybody wants independent adjudication and prosecution, but this act does not go far enough. It only provides true independence if there is a public complaint, but it doesn't provide for independent adjudication and prosecution if it is an internal complaint.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Brauti, and to your colleague.

To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. Can you elaborate a little bit more on both your written submission and what you just said? I'm going to quote you here: "This act does not go far enough" to deal with independent adjudication and prosecution. Can you elaborate? How far do you think we should be going?

Mr. Peter Brauti: It should be complete independence. You should have an independent adjudicator and an independent prosecutor.

The way the act works right now is that if a member of the public puts in a complaint, there will be an independent adjudicator and an independent prosecutor. But if there's an internal complaint—for example, the chief makes the complaint—then the chief gets to choose the adjudicator and choose the prosecutor, which is the current system. That is not independent adjudication.

Ms. Soo Wong: You have expressed on numerous occasions in your presentation this morning concerns about the oversight. My question to you is, what are the evidence-based best practices? The public demands oversight. Since we are, for the first time in the government, making these extensive and hopefully comprehensive changes with regard to oversight, share with us which model from different police service boards—or other jurisdictions that have evidence-based best practices in oversight.

Mr. Peter Brauti: I don't know if I could point to any specific jurisdiction and say that's the model, because they all have problems; no doubt about it.

As I said at the beginning, the associations universally say, "Look, we think oversight is a good thing. We think it's appropriate; it's necessary." But the problem is, and what the act largely does is, it is going to completely overburden and crash the system.

For example, I don't know if you know this, but the OIPRD's investigators have launched a government grievance against the OIPRD because they are overburdened. They can't get through their caseload as it is. Right now, they have 110 days from the time that they are supposed to get the complaint to the time it is supposed to be resolved, either with a charge or not. They are only meeting that goal 24% of the time. The government has asked them to reduce that to 90 days. The investigators are saying, "We will only be able to meet that goal 15% of the time."

This legislation will double or triple the amount of complaints that come in.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Peter Brauti: As a result of that, we're going to see officers waiting not three to seven years for their hearing to be heard; we're going to see five to eight years before they actually have a hearing. And they're on restricted duties. That can't make Ontario safe.

The Chair (Mr. Shafiq Qaadri): To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here today—and your duty to serve the Toronto Police Service.

I think that you should continue to expand—I mean, I think the impacts of the delays, and five to seven years, that they have on the officers before they can be heard—and just from a legal point of view, you may see more cases coming forward.

Mr. Peter Brauti: As a lawyer, I'm starting to bring delay applications before the court to say that this is abuse of process. That's going to continue to happen.

In the meantime, what happens is, officers cannot write for promotion; they cannot engage in duties that would allow them to be promoted later. They are often placed on restricted duties, so they can't be out on the road. They are losing overtime, which is important income for their families. All of that continues throughout that five-to-seven-year process or however long it's going to be.

The longer that we shelve these people, the greater the harm to the individual officers and the greater the harm

to the public. We want officers to be promoted. We want them to become more proficient in their job. We don't want them on restricted duties. We want them servicing the public.

Ms. Laurie Scott: Go ahead.

Mr. Ross Romano: Perhaps you can just expand on the nature of the effect this is going to have on an officer's ability to continue to execute his or her duties on a daily basis—dealing with that issue, and then how it's going to affect their day-to-day job.

Mr. Peter Brauti: As far as the delays go, again, when you overload the system and they're on restricted duties, essentially, they are working—there's no doubt about it—but they're doing tasks that would be more appropriate for a civilian. So we have highly trained individuals who could be doing policing functions, but instead they're filing paper. That's what I mean when I say it makes the community much less safe.

Mr. Ross Romano: It's also not very efficient, at the end of the day.

Mr. Peter Brauti: It's incredibly inefficient. If we could streamline this process, it would be incredible, but that's not what this legislation does. It doesn't streamline it. It overburdens the system. Literally, in my view—I'm in the trenches every day; I do this more than anybody in the province—it's going to crash the system.

Mr. Ross Romano: So it's less efficient, less safe. What's the advantage to it, then?

Mr. Peter Brauti: I don't know what the advantage is. That's why we're here.

The Chair (Mr. Shafiq Qaadri): To the NDP side: Ms. French.

Ms. Jennifer K. French: Again, thank you very much for coming in today.

You had started out talking about some of the new fines or some of the penalties. You also mentioned that the drafters, or the government, were not forthcoming when you were asking for specific examples that would warrant some of these penalties. Can you expand a bit on that and what your thoughts are as to why those penalties are there, then, if there is nothing to point to?

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Mr. Peter Brauti: We had numerous meetings with the drafters, and often the response was, "We didn't think about that" or "we didn't consider that" or "we didn't know that." When we asked for specific examples, they said, "That's what we were told." Well, what were you told? Give me the example. They couldn't give me an example of where that would take place.

Sorry, the second part of the question was?

Ms. Jennifer K. French: Your thoughts on why, then, it is in there.

Mr. Peter Brauti: It's there to appease special interest groups. It's to solve a problem that doesn't exist. It's put in there for popularity, as opposed to real practice.

In real practice, there are penalties. It's already there; it's all there. You can be charged in the Police Services Act, if you don't co-operate with the SIU, for neglect of duty or insubordination and be brought before the tribunal. It is already there. But $50,000 sure sounds good to some people out there who want to see people be tough on cops.

Ms. Jennifer K. French: Some of the folks who I heard speak at the consultations in the community—and I know that you've heard this as well—had a lot to say about their experience within the system when it comes to complaints and when it comes to the delays. I would call it a tortured process for all involved. You're obviously speaking to it from the officers' standpoint, and we've heard it from the community standpoint in terms of families.

I'd like you to explain how these changes might affect that experience for the public. You had mentioned from the officers' standpoint, but—

Mr. Peter Brauti: That's the strange thing about these hearings. We'll stand there and we'll complain that this is outrageous delay, and then the complainant stands up and complains about the outrageous delay. We're adverse parties in the hearing because the allegations are serious, and we're adverse. But we're joining each other in saying this is ridiculous. This act is going to make it more ridiculous. The public complainants are going to suffer.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Peter Brauti: Not only the officers, but the public complainants are going to suffer.

Ms. Jennifer K. French: Thank you. If you had any last thoughts, in the last 20 seconds?

Mr. Peter Brauti: If I had any last thoughts—I would scrap this bill, or I would say let's wait until there is an election. Let's wait until June and see who the government is, and then decide whether this should pass. Those are my last thoughts.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Brauti, and to your colleague, for your deputation on behalf of the Toronto Police Association.

AFRICAN CANADIAN LEGAL CLINIC

The Chair (Mr. Shafiq Qaadri): Is Mr. Matthew Boissonneault here? Mr. Boissonneault, are you present?

Mr. Matthew Boissonneault: Hi.

The Chair (Mr. Shafiq Qaadri): Okay, great. Welcome—on behalf of the African Canadian Legal Clinic. Bienvenue. Asseyez-vous. Your five-minute introductory remarks begin now.

Mr. Matthew Boissonneault: Thank you. First of all, I would like to thank you all for inviting submissions from the ACLC. I'm here to talk about the implementation of Bill 175, and particularly the policing oversight aspect of it.

Historically, the African Canadian community has been at the forefront of the development of independent police oversight in Ontario. The community's leadership in police oversight spans several decades, and with good reason. Criminologist Scot Wortley reports that African Canadians are disproportionately victims of police use-of-force incidents, and an investigation by the Toronto

Star revealed that 18 of the 51 fatal shootings by Toronto police since 1990—the inception of the SIU—were of black people. This represents 35% of such shootings, despite the fact that African Canadians comprise just 9% of Toronto's population. The race of the victim was not revealed in approximately one third of these shootings. Therefore, black people in Toronto are, at best, overrepresented in these fatal police shootings at a rate of 4 to 1.

This is the context in which the ACLC has approached police oversight. A history of disproportionate violence inflicted against black bodies, and the ensuing lack of consequences for the officers involved, have resulted in a fractured sense of trust and a healthy dose of skepticism with respect to police conduct and oversight.

The irony of this statement being delivered by someone who is not a member of the black community is not lost on me. But my experience at the clinic has exposed me to the harsh reality that different communities interact with the police in vastly different ways. This occurs in both practice and perception. Police services are public services, and police officers are public agents with the right to exercise deadly force. And, crucially, we are all the public. Therefore, while I'm delivering this statement on behalf of the ACLC, I'm also here in my capacity as a member of the public.

While Bill 175 is largely a commendable piece of legislation, there are certain sections contained within the Policing Oversight Act that are concerning to the ACLC and its community partners, with whom we've consulted. These sections are largely not the result of recommendations from Justice Tulloch, and we believe that their application will undermine the independence of Ontario's police oversight mechanisms and will also fundamentally compromise the public's confidence in Ontario's police. These sections are sections 16, 18, 19, and 33 of the Policing Oversight Act.

Section 16, "Power to investigate": Our principal concern with respect to this section is that it limits the jurisdiction of the SIU. Specifically, we request that sexual assault allegations against officers be included as a stand-alone ground for investigation under the SIU's jurisdiction.

Section 16(1) allows for an investigation into incidents resulting in:

"(1) The death of a person.

"(2) The serious injury of a person.

"(3) the discharge of a firearm at a person."

In no uncertain terms, sexual assault is inflicting serious bodily harm, and it's often combined with an abuse of power. However, the nature of this harm is unique and therefore deserves its own classification as an offence to be investigated.

Victims of sexual assault should not be precluded from bringing complaints forward for incidents that occurred prior to the enactment of Bill 175. This is particularly important if the accuser was a minor at the time of the incident, but this should apply to all victims regardless of age, gender or any other social classifier.

Section 18, "Investigation of related persons": This section allows the SIU to extend its investigations to "any other person" whom the SIU director considers responsible for the incident in question. This is, in the ACLC's opinion, the most dangerous inclusion in the Policing Oversight Act. The SIU depends on civilian witnesses' co-operation to assist its investigators. Section 18 shatters any protections that civilian witnesses currently enjoy, and will completely dissolve their inclination to co-operate. This section largely removes the SIU's confidentiality assurances to witnesses, thereby further inhibiting their potential co-operation.

Once a potential witness understands that they are potentially subject to a criminal investigation, they will understandably (a) refuse to co-operate, or (b) seek the advice of a lawyer. This lawyer will presumably advise against co-operation for fear of their client implicating themselves in the subject incident or any related criminal matter. Justice Tulloch did not recommend a provision akin to section 18 in his report. Its inclusion is a clever ploy that expands the jurisdiction of the SIU in theory but slams the door shut on the possibility for complete and thorough investigations into officer conduct in practice.

Section 19, "Ancillary investigations" and "Access to SIU files": Under this section, the SIU director must provide all SIU files to police services if the director refers an investigation of a potential criminal offence to a police chief. This inherently includes matters that do not result in criminal charges. Like section 18, section 19(5) attacks the SIU's ability to attract co-operating civilian witnesses. If a civilian suspects that their file, including statements and information, will ultimately be released to the police without their consent—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Matthew Boissonneault: —then they are far less likely to co-operate, for fear of the long-term impact.

For the sake of brevity, section 33 states that officers and designated authorities "shall comply with a direction or request received from the SIU director ... unless it is impracticable to do so." By assigning the purposefully vague qualifier of impracticability, it allows officers to evade full co-operation.

Overall, this is a matter of public trust and public confidence. The police services' duty is to serve and protect, which in my opinion—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Boissonneault. Your questioning begins now with the PC side.

Mr. McDonell?

Mr. Jim McDonell: Thank you for coming out today. You discussed a number of issues that go contrary to what the justice recommended. Any other side, or why you'd see that they would be included in this legislation?

Mr. Matthew Boissonneault: Pardon me?

Mr. Jim McDonell: Do you see why the government might have included these? Are there any merits or anything?

Mr. Matthew Boissonneault: I think that there are some. I don't necessarily think that section 16, for

example, is intended to exclude sexual assault. All we're saying is that we think it shouldn't.

The other one, section 18, subverts the meaning of what it's intended to do by, on its face, expanding what the SIU is allowed to do, which is something that looks good, but in effect, we think that it will give serious pause to any potential civilian witnesses who might co-operate with them. That's because even if the SIU director theoretically or hypothetically promises that he's not going to investigate them for anything whatsoever, they can't be certain. With that in the back of their head, or in the back of their mind, I think that they're going to be extremely reluctant to co-operate with police oversight mechanisms.

Mr. Jim McDonell: Have you had a chance to consult with the government on any of these issues, or with the ministry?

Mr. Matthew Boissonneault: We will be, in a few weeks. But we've heard from partners, other community advocacy groups, that have, and our understanding is that whenever section 18 is brought up, it's a non-starter. They will not discuss it, which honestly just exacerbates the concern we have. There is a specific reason why it's included, but it's one that they're not necessarily comfortable sharing with us.

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Mr. Jim McDonell: So they never provided any explanation—just an unwillingness to consult on it.

Mr. Matthew Boissonneault: Yes, although I'm not really an authority on that because I wasn't present at the meeting. That's what we were told.

The Chair (Mr. Shafiq Qaadri): To the NDP side: Ms. French.

Ms. Jennifer K. French: Thank you very much for a very comprehensive presentation, which I would like to have. Is there a submission for us—

Mr. Matthew Boissonneault: Is there a portal through which I can submit it online?

The Chair (Mr. Shafiq Qaadri): Email it to the Chair. And the text, of course, is in Hansard.

Mr. Matthew Boissonneault: Okay. Would you like a copy for now?

Ms. Jennifer K. French: We'll make sure that we get it before you leave today, because I'd like to be clear on the specifics.

You called section 18 the most dangerous inclusion of the oversight act, shattering the protection of civilian co-operation. From where I sit as a member of the civilian community, I can't imagine that keeping people out of the process is actually the goal. So I'll be interested to hear the government's answer to that. It would also be interesting to connect with the police on that and get it from all parts. I am curious where that comes from.

You had to go through that really quickly. Was there anything that you weren't able to get on the record?

Mr. Matthew Boissonneault: We do think that Ontario police do their job extraordinarily well. There are just a few things included in here that we think will do more harm than good.

I flew through section 33. Police officers have a duty to comply with SIU investigations unless it's impractical. In our opinion, the issue of practicality is something that should be discussed on a case-by-case basis between the director and the officers involved, if anything, but to assign it pre-emptively is just insulating officers from potentially having to co-operate. We don't see why that qualifier is being assigned without any further explanation in terms of what it actually does.

Ms. Jennifer K. French: On section 16, the power to investigate, you were talking about how sexual assault allegations should be a stand-alone section, and then I thought it was in answer to someone's question that—I thought what you said was contrary to that. Can you just clearly state what you would like to see?

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Matthew Boissonneault: We would like to see sexual assault allegations against officers be included as a fourth stand-alone ground for investigation by the SIU.

Ms. Jennifer K. French: As it stands now, you said it's not included.

Mr. Matthew Boissonneault: It's death, serious injury, and the discharge of a firearm.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. I appreciate your comments and suggestions on how to strengthen Bill 175.

In your presentation you didn't talk too much about the oversight in terms of the agency collecting personal data that includes race-based data. I want to hear your opinion. How would that benefit or support the clients you serve at the African Canadian Legal Clinic? Can you just provide some information about that?

Mr. Matthew Boissonneault: In our experience, there is an absence of quality data that discusses the communities that police interact with. Different sources do have them—and this expands beyond law enforcement; it's essentially every major social institution. The more data we have, the better we are able to identify problems and try to work with people to achieve solutions. That's a bit of a platitude, but we focus on data so much at the clinic because it works. It's almost like a biopsy.

Ms. Soo Wong: I wanted you to push out section 18—you have expressed concerns to the committee. In your submission to the committee—I know you have offered to share that with us—does it talk about how we improve that particular section? You have expressed concerns to the committee about the co-operation of the civilians and getting witnesses' support and that kind of stuff. Does your written submission to the committee give us some suggestions on how to improve that particular section?

Mr. Matthew Boissonneault: It doesn't, really, and that's because, when we all got together and discussed this—

Ms. Soo Wong: Who's "we"?

Mr. Matthew Boissonneault: The ACLC and our partners within the community.

I don't know if I'm at liberty to go into detail about that. But they want it excluded in its entirety.

Ms. Soo Wong: They want to delete that whole section?

Mr. Matthew Boissonneault: Yes. They want section 18 gone.

That being said, we would be more than happy to look into it and, if you guys are interested, to work with you in terms of coming to a compromise. But it doesn't seem like there's much room to work with something where there are just polar opposites.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Soo Wong: Thank you very much for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Boissonneault, for your deputation on behalf of the African Canadian Legal Clinic.

BLACK ACTION DEFENSE COMMITTEE INC.

The Chair (Mr. Shafiq Qaadri): I'll now invite our next presenters to please come forward: Mr. Gilliam and Ms. Steele of the Black Action Defense Committee.

Welcome. Please be seated. Your five minutes begin now.

Mr. Kingsley Gilliam: Good morning, Mr. Chairman, and members of the committee.

You know who the Black Action Defense Committee are, so we're not going to spend time introducing ourselves.

We are here representing the board of directors, membership of the Black Action Defense Committee and all Ontarians who yearn for a day when their children and other family members can walk the streets in safety, when they can walk the streets without harassment or brutalization by police, who stop them for no apparent reason and question them and give them a beating if they don't co-operate, like they did with Dafonte Miller in Whitby two years ago.

People yearn for the day when they can have a crisis and can call 911 with an assurance that their loved ones will not end up dead, like Andrew Loku, who was picked up on the Don Valley Parkway by Toronto police officers, riding an ebike at night. It was a rainy, foggy night. For his safety, they took him up, they drove him off. Actually, they got permission to take him home, across the city, to Gilbert Avenue. Another cruiser or a tow truck was coming with his bike. Within half an hour of him arriving at his home, something occurred. The police were called. Within 20 seconds of the police arriving on the landing, 28 feet away, Mr. Loku was shot dead. When asked at the inquest what happened after he shot him, the officer who fired the fatal shot said he fell like a tree.

Ladies and gentlemen, this is the type of policing that we have. I'm not saying that all police are like that. But this is routine.

Dafonte Miller, who I referred to, was beaten up by an off-duty Toronto police officer and his brother. They chased him and beat him with a piece of steel pipe and broke his bones. His eye was knocked out of his head. Then they called Durham police. Officers came, and they told them that he was assaulting them or breaking into cars or this type of thing. This is totally untenable.

The presenters before—Mr. Brauti, on behalf of the Toronto Police Association—will tell you to scrap this bill.

We have put tremendous energies and years—over four or five decades—of working with successive governments to try to deal with this issue, and none had the courage to take it on, because they were all afraid of the police.

1000

We cannot have that in a free and democratic society. Your freedom as legislators will be determined by what freedom the police deem you should have. That's a police state. Canada is a democracy.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Kingsley Gilliam: We are here to unequivocally support this bill, although it did not go far enough for us in some respects.

Mr. Brauti told you about all the problems that it will cause, with these penalties for non-compliance with the SIU. That is an indication that there is still an intent not to comply, so they don't want any penalties for non-compliance—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Gilliam.

We'll pass it now to the NDP: Ms. French.

Ms. Jennifer K. French: Thank you very much. I'm glad to see you again. The last time I saw you was in Durham region, in Oshawa. Welcome to Queen's Park.

I appreciate your passion, but I'd like to also pull from you some specifics, if possible, in the legislation. You say that it doesn't go far enough for some of the specifics. I'd like to know, whether it's accountability or oversight or any part of this, if there are any sections that you would tighten up or clarify, or where you haven't received assurances from the government that it accomplishes what you were hoping it would.

Mr. Kingsley Gilliam: Let me put it like this: We have worked tirelessly with the two ministries involved in putting this bill forward, so they have got our input.

We know that you cannot get everything in one fell swoop. However, one of the major issues that affect this whole thing around the SIU, or the OSIU, is the issue of the compliance with the early investigation. We have seen stonewalling. Weeks and months after an incident, neither the subject officer nor the witness officers—the subject officer never gives any evidence, and the witness officer was never available, and they do all kinds of things to prevent having to account for their actions.

Our position, while it may not be this bill's, is that police officers are not ordinary citizens. Ordinary citizens are not given the power of carrying a gun and using deadly force on others, or the power of arrest. The state

has imbued them with that power through legislation. Therefore, they should have an obligation to be held accountable for their actions.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Kingsley Gilliam: For every use of deadly force, they should be able to account for why that was the only option available.

Secondly, on that note, when the Charter of Rights and Freedoms was introduced by Pierre Trudeau in 1981, it was intended that ordinary citizens would have some rights, that they could not be arbitrarily stopped—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French.

We'll move now to the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and for sharing your opinion about Bill 175.

I'm particularly interested in your opinion on how this proposed legislation, in terms of the new requirement for public reporting, would improve the confidence. I've consistently heard about the African Canadian community's lack of trust, lack of confidence. How will this proposed legislation, in terms of public reporting, improve public confidence in terms of police oversight? Because that's what the essence of this bill is.

Mr. Kingsley Gilliam: We have been saying, from before this conversation began at the police services board, that for policing to regain the confidence of the people, it has to go back where it began. In 1829, Sir Robert Peel, who invented modern policing, designated nine principles—it's in my presentation—that would be required if policing was to be effective. Those are that the community must have trust. The police are the community, and the community are the police, and they trust each other.

Until we create the conditions to go back there, you're not going to get the confidence. We have cohort after cohort of kids growing up in the GTA, not only in Toronto, who would rather deal with bullying than call the police, because the police are a worse enemy to them than the gangsters. That undermines any attempt or perspective of getting trust. You cannot hire enough police officers to keep any community safe, because you would have to buttonhole each resident with a police. You'd have to have a one-to-one. So it is the morals, the values—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Kingsley Gilliam: —the general mores and laws and people's values that sustain and that keep them from breaching the law. As long as you are looking at the enforcement and throwing money after police to stop people from breaking the law, but they have the inner fortitude and desire to break the law, you're not going to change things. What we have to get back to is certain common values that society holds dear.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for your passionate and well-spoken presentation here this morning. Really, I don't have any questions. You've done such a great job in your presentation.

I thank you for coming this morning and answering the questions and doing a presentation and for the many years that you have been fighting for equal rights.

I don't know if you want to add anything? But I just wanted to say thank you. You and Valorie did a—and if Valorie wants to speak at all?

Mr. Kingsley Gilliam: There was one point I was about to add, and that was about where the bill falls short.

Ms. Laurie Scott: Okay, sure.

Mr. Kingsley Gilliam: It comes to the issue of the subject officer. Subject officers are not expected to provide accounting as to why they fired the gun or did take whatever action that brought them here. That is on the assumption that their charter rights protect them from this.

I am not a lawyer, but I do not believe that the intent of the framers of the charter was to protect law enforcement from accounting for their actions. I think it was to provide protection for civilians against abuse. I believe strongly that once you are given a gun, a badge and are in uniforms, you are no longer an ordinary citizen, and you have a responsibility to carry out your duties to the best of your ability within the framework of the law. When you have so done, and it involves lethal force, you should be able to justify it.

So I think that this area needs to be explored because—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Kingsley Gilliam: —I have monitored all kinds of these situations, and Mr. Brauti told you that there are no statistics and things. Yes, because if you do not gather data, you will not have any data to give out. If you don't monitor incidents of non-compliance, you won't have any record of non-compliance. All of this is based on data collection and administrative—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott, and thanks to you, Mr. Gilliam and your colleague on behalf of the Black Action Defense Committee.

This committee is in recess until 2 p.m. in this room this afternoon.

The committee recessed from 1010 to 1401.

ONTARIO ASSOCIATION OF POLICE SERVICES BOARDS

The Chair (Mr. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice.

As you know, we're here to consider Bill 175, An Act to implement measures with respect to policing, coroners and forensic laboratories and to enact, amend or repeal certain other statutes and revoke a regulation.

We'll begin our five-minute opening address with the next presenters" Mr. El-Chantiry, president, and Mr. Kaustinen, of the Ontario Association of Police Services Boards. Your five minutes begin now. Do introduce yourselves, gentlemen, and welcome.

Mr. Eli El-Chantiry: Good afternoon, Mr. Chair. My name is Eli El-Chantiry. I'm the chair of the Ontario

Association of Police Services Boards and also the Ottawa Police Services Board. With me is Fred Kaustinen, executive director of the Ontario Association of Police Services Boards.

We are here to share our views on what we like about Bill 175. These views and suggestions are based on our participation in over 200 Future of Policing meetings, from hosting several conferences and seminars about police reform, and from serving our 500 members.

Fred will now address the details of our submission. I'll turn it over to Fred.

Mr. Fred Kaustinen: Thank you, Eli.

Committee members, if you'd turn to page 3 in the slides that we've provided, I'll start with what we like about the bill.

I'd just like to highlight three things in here. The first is that the new oversight provisions, as suggested by Justice Tulloch, essentially set a new global standard for investigative independence and transparency. This is truly impressive.

There is a concerted attempt in this bill to clarify police board responsibilities to strategically govern police operations through policy without interfering with any specific police activity or investigation.

Thirdly, the minister is identified as responsible for police board training. This is woefully lacking in Ontario, and we're glad to see it.

Finally, it should be mentioned that it's also great that these features have been offered to First Nations communities.

There are four areas that we take some exception to. The first is the OPP detachment boards concept, which we support, but we do think that municipalities should be the ones to determine whether their local OPP boards are disbanded, rather than that decision being forced upon them by the province.

Second of all has to do with the collective bargaining process. Currently, the bill suggests that a police board member must be present through all of the negotiations. This doesn't happen anywhere else in Ontario. It's a huge distraction from governance, and it weakens the bargaining process. We want to have the boards remain as those that authorize the mandate to professionals and those that ratify the agreement, rather than be forced to be part of the bargaining process itself.

Thirdly, boards should be allowed to make policies about police deployment rather than making decisions about the deployment of specific officers. That's an area that needs to be tweaked in the act.

Finally, with regard to budget arbitration, where there is dispute on police budgets between boards and municipalities, currently it says that adequacy standards are the baseline for arbitration decisions. We believe the local boards' strategic plans for policing also need to carry just as much weight in those decisions.

There are a few other suggestions here about the transition from the old legislative paradigm to the new one. Essentially, there are some areas we're suggesting where it's best perhaps phased in.

Finally, we recognize that lots needs to be done in regulation. We specifically note that establishing board performance standards needs to be done, and compulsory board training needs to be identified.

Thanks for your interest. We look forward to working with all the stakeholders in implementing this bill.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen, for your opening remarks.

We'll pass it now to the PC side. Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here today.

This is a very large change in the Police Services Act. I think it's the largest in 20 years. It's a very large bill. Were you able to give input to the creation of the bill? Was there enough time? It's very large. You represent a very critical part of policing. I know that you made some recommendations, but could you elaborate on what you would like to see? Was there a consultation done?

Mr. Eli El-Chantiry: Through the Chair, Madam Scott, thank you very much for the question.

Yes, we believe we're overdue for the changes. As you mentioned in your remarks, it has been over 20 years. We have done quite a bit of consultation across the province. Also, as a sitting member of Future of Policing, we had attended over 200 meetings. We had 30-odd members across the province. I believe it would be almost impossible to achieve everything we would like to see, but the act is a step in the right direction.

I'm sure Fred wants to add something.

Mr. Fred Kaustinen: Yes, it's almost 30 years. It's well overdue. All the stakeholders have been participating in those meetings. Nobody is 100% satisfied, but the parts where it's compromised from our original positions, we're fine with, just with those four minor exceptions. It's a good move forward for the public.

Ms. Laurie Scott: I received a letter from a member of a rural police services board—and I know you addressed it a little bit, but I just want to read parts of the email. The person expressed strong concern over the creation of the OPP's detachment boards, which they believe will erode the independence and autonomy of local police services boards. They point out the vast distances that detachment board members would have to travel in a rural setting, and note that the bill doesn't spell out the number of members on a detachment board or how communities will be represented. I just wondered if you had heard that issue come up and if you had a comment.

Mr. Fred Kaustinen: Yes. There are 350 municipalities in Ontario that receive municipal policing services from the provincial police.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Fred Kaustinen: Less than half of those have representation on the boards. So the detachment system brings in over 200 more communities being represented. How that gets done needs to be sorted out in regulation, so we've made some suggestions on how to best satisfy everybody's interests.

Ms. Laurie Scott: Thank you very much. I look forward to those comments.

The Chair (Mr. Shafiq Qaadri): To the NDP side: Ms. French.

Ms. Jennifer K. French: Welcome to Queen's Park.

Mr. Eli El-Chantiry: Thank you.

Ms. Jennifer K. French: I had a few questions. As you said, there were four points that you take exception to. I was just curious: When it came to the collective bargaining process and your thoughts on that, can you expand a little bit? Because you've said that you want to be involved but not mandatory. What did I not understand there?

Mr. Eli El-Chantiry: Maybe I can shed some light on this. As you know, Ms. French, I'm the chair of the Ottawa police board. Right now, a board member must attend the negotiation. What we're asking is—a board can delegate this, if they wish, to HR or a legal service. As you know, we're the only sitting—it's mandatory for a board member to sit on a negotiation. We believe we can delegate this, with a direction to our HR or our legal staff to be able to negotiate.

In my city of Ottawa, we have over 7,000 members of CUPE 503 and over 3,000 members of the transit union, and we don't sit, as a politician, and negotiate. Neither does the minister of our ministry. They don't sit and negotiate with the OPP.

So we're saying we don't need to be there physically; we can have our direction and remove the politics out of negotiating and focus on policing and safety.

Ms. Jennifer K. French: Thank you. You also mentioned in your presentation that there is much that needs to be done in regulation. One of the things that I've been hearing broadly is that much in this bill will be left to regulation. Is there anything that the government has told you will be left to regulations that concerns you, anything that you think should actually be subject to a debate and a vote and be talked about now, as opposed to left to regulations?

Mr. Fred Kaustinen: Everybody wants to see their sacred cows enshrined in the legislation, but I think there needs to be a saw-off between what's in the legislation and what's in the regulation. We can live with that the way it's been presented.

1410

Ms. Jennifer K. French: Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French. To the government side: Ms. Sandals.

Mrs. Liz Sandals: Thank you very much for your presentation. I guess we're all interested in the concept of a detachment board. I will say that in the neck of the woods where I live, there's both a model I'm aware of, where there's one detachment where I think there are six different police service boards overseeing it, and then the other extreme, which is one board for an entire county that oversees more than one detachment. So I sort of see the larger model as having been more effective than the fragmented model.

I was wondering why you wanted to keep the old contract boards in place, even as you move to a detachment board model.

Mr. Eli El-Chantiry: We're not saying we want to keep it; let the municipality decide this. Where I come from, in eastern Ontario, I have a county. They have eight boards with one detachment, so the detachment commander really has to attend eight different meetings with eight different requests. We're saying maybe it should be one detachment per one board on a county level.

I know we need to have a little bit of consideration for the geography. As you go up north, there's a different geography, there's distance, there are multiple areas. But we're saying, let the municipalities work with you and do a transition; not just say, "No, we have decided this area will have a board, this area doesn't have a board." That's what we're trying to—

Mrs. Liz Sandals: Are you suggesting that the old contract boards would continue to have some power, or simply that they would be advising the new larger detachment board?

Mr. Eli El-Chantiry: We need to work together. I came here from a municipal service. Obviously, it's a little bit different for us, but what we heard from our members with the OPP area—I mean, a community needs to have a voice; a community needs to have representation. At the same time, one detachment represents 20 communities. How many people are you going to be able to have on one board?

We need to work on some of the detail together, but what I'm saying to you is, one board per detachment. We've seen it work in some areas, and in some areas, actually, they're asking for it to be that way.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Fred Kaustinen: I'd just add to that that the contract boards currently have very limited powers, and the detachment boards look like they will have more power. You could still have an outlying local board that's establishing priorities for its own local community, and that could fit in quite well underneath the detachment board.

Mrs. Liz Sandals: But would you still be expecting the commander of the detachment to visit all of these?

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. That question will have to remain rhetorical.

Thank you, Mr. El-Chantiry—shukran—and Mr. Kaustinen for your deputation on behalf of the Ontario Association of Police Services Boards.

Mr. Eli El-Chantiry: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Afwan.

SAFER ONTARIO ACT REVIEW COLLECTIVE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Singh and Ms. Yanful of Safer Ontario Act Review Collective. Welcome.

Mr. Knia Singh: Good afternoon.

The Chair (Mr. Shafiq Qaadri): Please be seated. If you have materials for distribution or for copying for our colleagues, let us know.

Mr. Knia Singh: Thank you.

The Chair (Mr. Shafiq Qaadri): Please begin now.

Mr. Knia Singh: I apologize; I'm just plugging in the computer.

Good afternoon, committee. My name is Knia Singh, and I'm accompanied by Nana Yanful. We're part of the SOAR Collective, the Safer Ontario Act Review Collective.

The SOAR Collective is an ad hoc, independent group of greater Toronto area-based African Canadian lawyers and legal scholars. In this brief, the SOAR Collective sets out its recommendations for Bill 175, using an African Canadian lens, to ensure greater policing and oversight accountability, transparency and racial equity for African Canadians across Ontario.

There is a history of policing the African Canadian community that is directly linked to the enslavement of African people over four centuries by the British Commonwealth throughout the western hemisphere. This direct link between slave patrols, stopping, detaining, arresting and abusing people of African descent has carried on until the present day, in 2018, with a disproportionate number of African descendants being subject to policing policies and behaviours.

The Ontario government has taken a bold step forward to improve the Police Services Act to protect the rights of Ontario residents and ensure accountability at all levels of policing. The SOAR Collective is in a unique position to assist with the review of the Safer Ontario Act and provide valuable input that can improve policing in Ontario, due to the first-hand experiences of injustice against African Canadians at the hands of police in the province of Ontario.

It is indigenous and African descendants who have been subject to the discrimination and abuse by police services across the province of Ontario, which is reflected in the disproportionate amount of arrests, charges and people incarcerated compared to the rest of the general population. It is through this lens that the SOAR Collective has analyzed Bill 175 and is presenting these important observations, suggestions and recommendations. It is our hope that these recommendations will be taken seriously and acted upon in order to make this a safer Ontario for all, regardless of race, colour or ethnic origin.

The document we've presented to you has 10 bullet points to start off, and those are the 10 most important things we've taken from Bill 175. I will go through in order the first 10. The rest of our document provides the recommendations in wording and language in the schedule, as it is in the draft of Bill 175. We will be providing any amendments before the deadline is reached. We're open to any conversations with the committee if they require more information from us.

First of all, there is no specific mention of the African Canadian and/or black community in the initial address. By failing to mention the community, it fails to recognize the unique histories and cultures connected to these communities. I've outlined it in my introduction.

We understand First Nations; this is traditionally First Nations land, and that's why historically the government has recognized their rights in a unique position. But what has been left out of British and Canadian law, government and acknowledgement is the connection with African Canadians and the trans-Atlantic slave trade. We are submitting and letting the committee know that the experience of land being taken and African people being taken from the continent and brought here has created a unique history where the socio-economic conditions are worsened, discrimination is acted out in a different way and, as I've said before, it's reflected in the populations in prison, the charges, arrests and, recently, what we know as arbitrary detention and carding.

If this is not acknowledged, we're not being truthful to the reality of what policing is in Ontario and across the country. We see a disproportionate amount of deaths through mental health or shootings that are affecting the community.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Knia Singh: Police services boards: The duties and responsibilities of the boards are to provide effective governance.

Schedule 1, part IV: We want to ensure non-conviction records are not part of the approval process as it does deter and limit people from the community taking part as employees of the police service.

As I do not have enough time, I'll ask the Chair if there's an extension of time warranted or granted. If not, all of our recommendations are located in the document.

The Chair (Mr. Shafiq Qaadri): Thank you. Time passes to the NDP: Ms. French.

Ms. Jennifer K. French: It's my opportunity to ask questions or to give you space to comment further, if you'd like to take the opportunity to continue your presentation.

Mr. Knia Singh: Thank you, Ms. French.

I will jump forward to bullet number 8, on the Ontario Special Investigations Unit, because the information I've been presenting directly relates to the investigation of serious bodily harm or death. There are a number of concerns laid out with this bill.

There is no mention of the collection of race-based data for research and analysis, and we believe that's very important to understanding the climate.

There is no requirement to investigate when an officer's gun is used. There are many reports of firearms being drawn on civilians, and that should be accounted for when analyzing a police officer's actions.

1420

The director is not required to report to the public on why it decided not to investigate a matter for which it was given notice.

These are serious concerns to the community, as we sometimes feel the community's concerns are overlooked and not taken seriously. With that being addressed, it would provide the community with more support.

The SIU should be required to share information with the victim's family, support person and other supporting

organizations. In the community, there a lot of people who are under-resourced, and having the victim's family, support or other community organizations with the resources—the SIU should be able to provide and share that with them.

There should be a requirement that the staff and investigator complement of the SIU be reflective of the pluralistic, multiracial and multicultural character of Ontario society—specifically from communities under-represented within the oversight bodies.

There should be a requirement that there should be an African Canadian liaison team or support person employed by the SIU, and an African Canadian advisory body. Again, committee, we do press upon the importance of involving the African Canadian community at this level because, as we see, there's a disproportionate effect to First Nations and African Canadians. Without communication with the community, we perceive that these problems will continue.

But we do acknowledge the Ontario government's bold step forward in addressing and revising the Police Services Act, and that is why the SOAR Collective has come together to analyze.

Thank you, Ms. French.

Ms. Jennifer K. French: I'm probably almost out of time.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: Shoot; I was listening so intently.

I want to ask you if you have any concerns—the same question I've asked before—about what might be left to regulation, things you'd like to know now, rather than leaving it to after the fact, in backrooms?

Ms. Nana Yanful: There wasn't anything specifically, Ms. French, but we know that we can make recommendations to the ministry regarding regulations when that time comes. We did have some language that we would like included—

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your written submission.

I see the executive summary with all your recommendations. I want to push a little bit further with regard to your comments on recommendation number 5, dealing with a new inspector general. You commented that that particular new position doesn't go far enough—at the bottom of the first page—saying that there's no requirement that the inspector general provide a fulsome report to the minister. Can you elaborate a little bit more about that? What do you mean by "fulsome" reporting?

Mr. Knia Singh: Just a brief indulgence, Ms. Wong—we have all of our notes related to each section that our collective has worked on, so I do not want to misquote any of our members.

Accountability is a big piece of the way a community reviews any changes to legislation. The fact that there's no requirement that the inspector provide a report—when the authority is left with the inspector, we expect the inspector to be able to produce something. If he can't provide a report to the minister, then the minister doesn't have the information required to make the final decision. That is where we have found a deficiency now.

I'm looking at the notes—

Ms. Soo Wong: Maybe you could follow up with us.

We have had a number of witnesses before this committee already; it's 2:25. I think you're the first group to have indicated your support of the community safety and well-being plans. You saw the importance, and I think you made a recommendation to this committee that that plan be posted on a website to ensure more transparency. Others saw this as extra work for the chief or for the police community. Can you elaborate a little bit more, in terms of building confidence—because much of this proposed legislation, if passed, is, hopefully, building more confidence, more trust, more relationships with policing. Could you elaborate more about this particular community safety and well-being plan as it relates to the government's intent of more oversight?

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Knia Singh: Yes. To briefly sum it up, the fact that the plan is written in the legislation is productive and beneficial. However, if the community does not know, they will not have faith. If it is posted by each municipality, then they have a recourse to follow up. That has happened with the regulations. The regulations are great on carding, but the community doesn't understand them, and there needs to be more outreach. It goes the same with the Police Services Act.

The language on the information: Before, it was "shall" versus "may." The language says "may." We want "the inspector shall provide a report"—not the opportunity to decide whether he does or not.

Ms. Soo Wong: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong.

Now to the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you for appearing here today and for a very organized report. Are there any specific ones that you didn't get a chance to elaborate on that you would like to? I can ask otherwise, but I appreciate the fact that you've done a lot of work, and so if there's something you wanted to highlight without me asking specifically, please go ahead.

Mr. Knia Singh: Yes. Well, thank you. I'll let Nana just skim through, but I will comment, basically, on the diversity plan and the community well-being. We did recognize it as a very positive step forward, and we did welcome all the changes.

There is one instance—in the municipal boards, there's a recommendation about five, seven or nine members. Our collective believes that there should be an allowance of up to 11 members, because certain municipalities have greater populations, such as Toronto—great; diverse—and 11 members would fit in the major metropolitan areas in Ontario. So we would think that would be a good recommendation, to expand the board to that level.

Police record checks in section 33(2): "The appointing person or body must consider the results of a potential appointee's police record check...." Now, criminal checks only provide criminal convictions, but a fulsome, vulnerable-sectors check and a police record check also show non-conviction records. We would like to see the legislation reflect that it would not be examining those non-conviction records, because it could deter people who have a lot to contribute from being part of the process.

I myself have 11 non-conviction records. However, that would prevent me from being part of the process if that was a screening-out form.

Ms. Laurie Scott: I was going to ask for clarification on that, so thank you.

Please go ahead. Did you—

Ms. Nana Yanful: Yes. I think I would focus a little bit on the powers or duties of the chief of police. There were a few things that our collective did find, specifically on issuing discipline. That's number 6 on page 2 of our document. We said that officer misconduct or unsatisfactory work performance wouldn't be considered when issuing discipline. Because the chief does not possess the ability to terminate an officer for those things, outside of an application for a tribunal, we thought that this process might be time-consuming and result in increased legal costs for the service. That was just one item that we identified under that heading.

Ms. Laurie Scott: Okay. Thank you very much.

Ms. Nana Yanful: Thank you.

Mr. Knia Singh: And a final one, on the declaration of principles: The principles are outlined and they speak about the need to do things.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Knia Singh: Some of us analyzed this and recommended that it shouldn't be "the need"; it should be a directive. Instead of "the need to be responsive," use "shall be responsive," "should be responsive," "must be responsive." "The need" is an ideal that is open to interpretation. A straight directive in the act would give the imperative for the officers to really live up to the act.

Ms. Laurie Scott: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott, and thanks to you, Mr. Singh and Ms. Yanful, for your deputation on behalf of SOAR.

Mr. Knia Singh: Thank you.

MS. MAUREEN TRASK

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Ms. Maureen Trask. Welcome, Ms. Trask. Please be seated. Your five minutes begin now.

Ms. Maureen Trask: Thank you to the Chair and committee for this opportunity to speak regarding Bill 175, the Safer Ontario Act.

Personally, I have no problem with what is being proposed in the bill. Modernization of such an established institution as policing is overdue. The course of action to strengthen police oversight and clarify police functions in terms of community need is necessary.

So my focus is not on this entire bill; I'm focused on the Missing Persons Act, schedule 7 of the bill, and will speak to it.

For over four years, I've advocated for this legislation, along with other families who have missing loved ones. I want to start by giving you a recap of key milestones along my journey to this point.

December 2013: Local families collaborated with Waterloo Regional Police, shocked to learn that police have a major roadblock to investigate missing persons cases where there is no evidence of crime. Police have no authority to access personal information or the ability to search possible premises that could lead to finding missing persons. Current legislation allows for access only if there is evidence of crime. That means that when there is no evidence of crime, families are left frustrated and do not have equal investigative rights that could help to find their missing loved one.

1430

In April 2014, after researching and learning that a missing persons act had in fact been implemented in other provinces, and that it was recommended by the federal government to have an act in place for all provincesprovinces and territories, it was a matter of getting a missing persons act in Ontario.

In June, I met with my MPP Catherine Fife, Kitchener–Waterloo, to discuss the issue and get a petition started. In October 2014, she introduced the petition to the Legislature, asking government to introduce missing persons legislation. Letters of support were garnered from various stakeholders, including the Ontario Association of Chiefs of Police. In October 2015, a motion was made by MPP Fife for missing persons legislation and was supported by all parties.

In January 2016, a Ministry of Community Safety policy team, of which two members are here today, was set up, and monthly conference calls took place regarding research, privacy concerns and consultations with government and stakeholders. Draft legislation was helped by provincial examples and the Uniform Missing Persons Act that was adopted by the Uniform Law Conference of Canada in 2014.

In November 2017, we saw Bill 175 introduced by this government, with little mention of the Missing Persons Act. This was rectified in the second reading debate.

Here we are now, four years later, but getting closer. I see some light. I've raised my questions about the drafted Missing Persons Act in my monthly calls with the policy team. All items were answered, understanding that regulations will cover off the details of many of the questions I had asked.

Will the Missing Persons Act make a difference? In my assessment and that of other families, yes. This act will ensure personal information is accessible to police and allow searching of premises in a timely and consistent manner to help find missing persons.

Reporting to the public is to be made on an annual basis. Statistics will help to determine patterns in the

data, identifying if things are getting better, worse or staying the same. Missing persons is a social issue that typically does not get reported on. It's glaringly absent from annual reports. This, too, needs to be part of all annual police reporting, if we're going to be able to understand the missing persons issue.

For implementation, here are some things to consider:

—ensure resources are available to conduct these investigations;

—develop timely regulations and prescribed transparent procedures; and

—ensure awareness and training for the judiciary and police; and

—provide information for families regarding what the legislation will and won't do.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Maureen Trask: A lot of time and effort has been put in. I appreciate all of the assistance and support from those who have worked on it. I will continue working on this and other legislative changes. I do this to honour my son Daniel, who was missing for three and a half years before his partial remains were found in May 2015. Daniel would want to know that some good has come from his demise. Any measures to get answers are well worth the time and effort.

Anyone might have a missing loved one—any of us. Every life matters. Let this guide your deliberations. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Trask.

I invite the government side. Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation, and for your hard work and determination. I know the government has heard your story, and I'm pleased that you continue to work with the Ministry of Community Safety and Correctional Services on this particular file.

I know that the time is limited. Can you share with this committee any additional support that may be needed in terms of resources, in terms of family, in terms of investigating and supporting families with missing persons, that would be helpful?

Ms. Maureen Trask: I'm pleased to say that the policy team that was put together, in their consultations, actually covered off supports for families as the second priority. I was terribly dismayed when I first came on this journey to find that there are no supports. The indigenous review right now is telling us that they don't have resources. Quite frankly, nobody has resources available to them.

Police, quite frankly, as good as their hearts are, are not equipped to provide emotional support for families. There needs to be a level of expertise involved there. We wouldn't want to take away from them to do the investigative things and searching things that they need to do, so a lot of work still needs to be done on that. That, in fact, is one of my next endeavours.

Ms. Soo Wong: Thank you for your determination and perseverance on this file.

The Chair (Mr. Shafiq Qaadri): To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much. You've had quite a personal journey, Maureen, and you've been tenacious in advocating. I would say the Missing Persons Act—this section of the bill, anyway—is long overdue. You are making a difference in people's lives, for sure, by getting this. I think that most of the population would be surprised that there was nothing, and that the police did not have the tools.

This is Human Trafficking Awareness Day, in case you didn't know—

Ms. Maureen Trask: I know.

Ms. Laurie Scott: —so we've been speaking about it a lot in the Legislature. Of course, the intricacies of the tie-in to missing persons and children going missing and being trafficked is very much real.

As you've had the journey of developing the policy—I know that you're going to stay involved in developing the regulations, because we're just not there yet, as this is the framework legislation—I hope that you continue to advise us and to put forward your knowledge which you've gained over the many years.

When I hear from the police that there are 13,000 missing children in the province of Ontario—most people are shocked at that statistic.

I don't know if you wanted to elaborate on anything else you've found that you could share. I don't need to take the time.

Ms. Maureen Trask: I mentioned stats in my presentation. I'm very adamant about uniform statistics across Canada. The RCMP have a great jump-start on that, but there's a long way to go.

As far as the trafficking, yes, there is definitely a huge number of young missing persons, girls and boys, who are ending up in the trafficking arm. Unfortunately, they are being shipped so far away that it's difficult for families to track them.

Ms. Laurie Scott: That's right. Well, thank you for your time, and I hope to see you as the regulations go forward.

Ms. Maureen Trask: Definitely. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott, for one minute.

Mr. Ted Arnott: Thank you, Maureen, for coming today to make your presentation to this committee. I want to express my appreciation to you for all the work that you've done on this issue, and for informing me in previous meetings as to what needs to be done. I really appreciate everything that you've done.

You have indicated that some of the details need to be fleshed out during the course of the development of regulations, assuming this bill passes. I certainly give you my commitment that the members of the Legislature will want to work with you if there are issues that arise during the course of those discussions, because we need to get this right. It's so vitally important for so many families across the province—

Ms. Maureen Trask: I appreciate that, Ted.

I should have mentioned that I recently moved to Ted's jurisdiction as a constituent now, so my umbrella has expanded a little bit. But that's a wonderful thing.

Mr. Ted Arnott: And Catherine Fife deserves enormous credit for the work that she has done in the Legislature as well. Thank you.

Ms. Maureen Trask: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott, for your intervention.

We'll now proceed to Ms. French.

Ms. Jennifer K. French: I would say that Ms. Scott and I are following a similar thought pattern today with the human trafficking conversation.

Also, I was curious for you to elaborate more on stats and the uniform statistics.

Before I ask about that, though, I did want to thank you very much for coming today, and for what has been, I am sure, an unbelievable journey. I think that your advocacy is much of why we're here today, so thank you for your involvement. I'm sorry Catherine Fife couldn't be here. I know she would be glad to sit across from you and say the same things.

I did want to know if you had any more thoughts on the specific stats you'd like to see accessible to police or to authorities.

Also, you talked about the training needed for judiciary and police, clear education about what the limits are or what is available in terms of tools for families—if you could expand a bit on what you'd already started.

Ms. Maureen Trask: Certainly. Thank you. As far as the statistics go, ask anyone how many missing persons there are in Ontario and you'll get many variations of answers. The issue is that most people, including the RCMP, report on the number of missing incidents. So if someone is reported missing three times, that counts as three times. It's not the actual number of physical persons.

1440

There's no continuity of those stats either. Within the year, how many were found? How many new ones went missing? How many, it may be found, resulted in a crime or homicide? There's no way of truly looking at the patterns in the data because all the data isn't there to tell us the story.

Ms. Jennifer K. French: That's been a bit of a theme today that I've heard. If we don't have the data, if we're not collecting the data, we can't analyze the data and we can't learn from the data.

Ms. Maureen Trask: Exactly. I only learned that by contacting the RCMP to try to get that answer, and they said, "We can't provide it."

Ms. Jennifer K. French: Do you have recommendations—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: —on what that education would look like? You had to learn it first-hand, in the thick of it. What would you like others to already know?

Ms. Maureen Trask: I'd like to see formal training for police, because most units do not have a formal missing persons unit. It's investigators who get involved, with no formal training. There should be, in the Ontario Police College, a curriculum on that. I know the OPP are looking at that.

The other thing is, for families, the biggest issue is communication and that relationship and rapport. They need to build and have that trust with the police. When I got involved, it was appalling, which is why I got the families together with the police to try to make it better.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Trask, not only for your presence, but also for sharing your very personal journey, on behalf of all the members of the committee.

CHIEFS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Chiefs of Ontario, Chief Paul Syrette and Nathan Wright. Please come forward, gentlemen.

Your five minutes' opening address, please begin now. Do introduce yourselves as well.

Mr. Nathan Wright: Good afternoon. I'd like to thank the committee for your time today. My name is Nathan Wright. I'm the chief operating officer at the Chiefs of Ontario. I'm here today with Chief Syrette of Garden River First Nation, who is also a former police officer with many decades of first-hand experience.

First I want to acknowledge that we are on the traditional territory of many indigenous nations, in particular the Haudenosaunee, the Mississaugas of the New Credit, as well as the Anishnawbe Nations.

I'd like to start today by acknowledging the work that Ontario has done by taking very positive steps on First Nations policing issues. Many reports and First Nation leaders have called for legislative change regarding equitable policing standards and funding. Ontario has responded with amendments, which is a positive step forward.

However, we see three problematic areas where the proposed bill will undermine community safety and indigenous self-government. These would be unintended, but very serious, negative consequences. It would be unfortunate if these well-meaning amendments were marred with these negative elements, but luckily these problems can be solved by the very small and very specific changes that we are requesting here today.

Chief Paul Syrette: Thanks, Nathan. Good afternoon, committee members. I will start with the first requested amendment, which involved First Nation bylaw enforcement. Under the proposed amendments, First Nation bylaw enforcement would be expressly excluded from the list of mandatory police functions. In practice, this would make many bylaws unenforceable because many of our communities cannot find the funds to pay for our own bylaw enforcement. This is a community safety problem and a major impediment to self-government.

First Nation bylaws were likely excluded because municipal bylaws were excluded as well, but First

Nations are not municipalities and our bylaws and circumstances are very different. First Nation bylaws need to be enforced for important reasons that do not apply to municipalities. For example, we often use bylaws to implement indigenous self-government and to regulate our own lands and communities. The right to self-government was recognized by the political accord the Chiefs of Ontario signed with the Ontario government under resolution by the Chiefs-in-Assembly. But that recognition sounds hollow if First Nation bylaw enforcement is treated as optional.

Our bylaws also address fundamental community safety issues, such as keeping illegal substances out of our dry communities and protecting vulnerable community members from dangerous offenders. These are the kinds of issues that should be mandatory for police to enforce, just like other laws that protect community safety.

Lastly, unlike municipalities, First Nations often cannot afford to pay for their own law enforcement. If bylaws are not a mandatory police function, they will simply not be enforced in many communities. Our bylaws play additional and important roles relating to self-government and community safety, but there are fewer resources to enforce them.

This situation could be solved by removing just three words from subsection 11(2) of the proposed amendments. If this is done, future consultations can still take place about First Nation bylaw enforcement when regulations are drafted. However, if this is not done, the exclusion of First Nation bylaws will be set in stone, setting us back for many years to come, and undermining First Nation self-government and community safety.

We strongly urge you to make this small but incredibly important change.

Mr. Nathan Wright: Our second request is that First Nations policed directly by the OPP be able to appeal to an independent arbitrator if they are not receiving adequate services. The arbitrator can then order that the gaps in services be addressed. This kind of appeal mechanism was recommended in the Kashechewan inquiry, and that's been requested by First Nations for a number of years.

The process is needed to help ensure equitable policing levels for First Nations going forward into the future as governments and government priorities change. Although a complaints process has been proposed for the First Nations police by the OPP, this process is not binding to the Ontario government. It also is not impartial and it is not adjudicative.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Chief Paul Syrette: Although it may be acceptable in a municipal context, it is insufficient in a First Nation context because it puts the minister in an irreconcilable conflict of interest as a respondent to complaints, as the funder and as the final decision-maker in complaints.

Our third and final request is an important and sensitive wording issue. The proposed amendments state that "First Nation territory" means "a reserve." This is incorrect and very problematic. Our territories are far more expansive than our reserves. We have important rights and deep connections within our territories which extend far beyond our reserves, such as hunting and fishing rights. To refer to reserves, the amendment should use a term other than "territories."

And on a final note—

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen, for your introductory remarks.

We will pass it to the PC side. Mr. McDonell.

Mr. Jim McDonell: Do you want to finish your last point?

Chief Paul Syrette: If I could just state it, our ultimate goal is full First Nation control of First Nations' law and order issues. We believe this is necessary for us to have truly safe and healthy communities. The proposed amendments will not achieve that goal, and so we see this as a stepping stone in our long path. Thank you.

Mr. Jim McDonell: Thank you for coming out today. You talked about the requirement to appeal for certain levels. Maybe you could just elaborate on some of the examples that you'd be looking for as far as the appeal process to make sure your levels are brought up. It's your second item there.

Chief Paul Syrette: What we're referring to there is that First Nations communities—right now, there's an existing group of about approximately 40 that receive services by the Ontario Provincial Police. That unique group does not have a mechanism or an option to file appeals should they not be satisfied with the level of service that's provided. That's problematic. That's why we're addressing that issue—because they fall away from that option to certainly file an appeal if they're just not satisfied. That puts us in a very vulnerable position.

Mr. Nathan Wright: That includes issues like HR, equipment, training, all those services or requirements that a normal police force would normally have. They don't have an independent body to bring those issues forward for address.

Mr. Jim McDonell: Are there any other issues you have throughout the—to be a little more specific on in the bill?

Mr. Nathan Wright: In particular to your first question?

Mr. Jim McDonell: Overall, in anything.

Mr. Nathan Wright: Overall, in anything?

Mr. Jim McDonell: Yes.

Mr. Nathan Wright: I think the cultural appropriateness of the training provided thus far really needs to be addressed. The legislation is not going far enough in that particular area. That's one area that I know the Ipperwash inquiry has recommended and a number of the inquests have also recommended. And the chief can probably speak more to that.

Chief Paul Syrette: There have been a lot of steps taken and there has been a lot of training done with a lot of the services throughout the province, but it needs to be ongoing. There needs to be more. There needs to be

further recognition that it's not just a one-week cultural orientation course.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Chief Paul Syrette: There needs to be more impact. Come out to those communities and learn. Come and be educated by the First Nations and learn about what is required, and I think we'll be successful there.

Mr. Nathan Wright: Just on a final note, we do want to acknowledge the positive steps Ontario has taken with respect to First Nations policing. For example, Ontario does deserve recognition for the funding it has provided to address the wage gaps and wage parity between indigenous and non-indigenous—and also just to hold up my colleagues from MCSCS for their work on that particular issue.

Mr. Jim McDonell: Thank you.

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The Chair (Mr. Shafiq Qaadri): To the NDP side: Ms. French.

Ms. Jennifer K. French: Thank you and welcome to Queen's Park. I have so many thoughts and questions. I appreciate your submission.

I see that we didn't have the opportunity to get to the next steps. You touched on it with the culturally responsive services and your thoughts on that. Is that, broadly, to the rest of the bill, that you're wanting to see something else—or was that specific to the creation of NAPS?

Chief Paul Syrette: I think services are very important, of course, but there are so many other components when we talk about resolving issues, resolving conflicts, resolving all kinds of matters that we face on a daily basis. The understanding of that cultural aspect of it—the understanding of the significance of an eagle staff that is at a demonstration, the significance of the smudging ceremonies—and that is participated in with many of our friends and neighbours that we deal with. We have to live side by side. We're dealing with issues that sometimes get a little bit political. We want to recognize the fact that, culturally, we need to be there in understanding—just an understanding and that mutual respect for each other that deals with that cultural component.

Mr. Nathan Wright: Just further to that: The only way we can do that is, really, true partnerships in the development of the regulations going forward. That's a place where we're well-equipped, certainly, to help with that.

Ms. Jennifer K. French: I would imagine so.

You had talked about the bylaw enforcement and the lack of resources that would—why it would need to be done by police. What sorts of resources would be required to support this piece of legislation more broadly? Has there been a commitment to this? We see the framework here, and we see much to be accomplished in regulation, but I haven't heard a dollar amount.

Chief Paul Syrette: I don't have specific dollar amounts. But I can say—to use the example of the bylaw enforcement officer, we don't have those. We can't fund bylaw enforcement officers, although we want to have them. We rely on the police services that are there. They're tasked with enforcing these bylaws.

It's the uniqueness of that challenge alone, in funding. Again, it boils down to funding all the time. That's what we're trying to do, so that—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Chief Paul Syrette: We want to have that ability to self-govern and make our own laws that are specific for our communities—a vast province and the amount of First Nation communities throughout. We want each individual community to be able to do their own enforcement and make their own laws that are specific to their community—not one encompassing, say, a provincial offences act that just blankets everything.

Ms. Jennifer K. French: I'm very glad to see this in here, although, that said, I'm surprised it wasn't a standalone piece of legislation—but here we are.

Thank you so much for coming. Please keep us in your loop as you're having that input in regulations.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, Chief and Mr. Wright, for being here today and for your written submission.

I noticed that in your written submission to the committee—my ministry, the Ministry of Community Safety and Correctional Services will be looking at it attentively, particularly the issue you raise about the culturally respectful piece. I think that the minister is prepared and continues to be working with the Chiefs of Ontario.

More importantly, I think we recognize your concerns about more resources, and also the training piece. Training is not one day; it's always ongoing, whether it is the Chiefs of Ontario or every policing board. This is a key piece.

I want to get clarification. With respect to Bill 175, except for these areas you have identified in terms of your presentation and your written submission—generally, the Chiefs of Ontario do support Bill 175 going forward. Am I correct to say that?

Chief Paul Syrette: Yes, that's very correct.

Ms. Soo Wong: The previous witness talked about one of our schedules dealing with missing persons. We know we have to do better. For that particular section of the schedule of the legislation, are you satisfied? Dealing with the community, can we do more—because of the cultural sensitivity piece? More importantly, I want to hear your view about that particular schedule.

Mr. Nathan Wright: There's definitely continued work with your ministry and my colleagues across the board and across the region on that. We definitely started the important work around missing persons and have provided thus far a number of commentaries and recommendations going forward within that particular context, but it's work unfinished. That's where I'll leave that.

Ms. Soo Wong: Okay. We've just begun.

Mr. Nathan Wright: Yes.

Ms. Soo Wong: Right. Thank you very much for being here. I really appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks, gentlemen, Mr. Wright and Mr. Syrette. Meegwetch, on behalf of the committee here.

TOWN OF CALEDON

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: His Worship Mayor Allan Thompson of the town of Caledon, and colleagues. Welcome, Mayor Thompson. Please be seated. Your time begins now.

Mr. Allan Thompson: Thank you very much. I'm Allan Thompson, the mayor of Caledon. I'm part of Peel region and I'm here to talk about the Police Services Act.

The challenge is that back in 1980, with the fast growth that Peel region was taking, we could not promote enough sergeants to build the platoons for the forces. So they pulled the forces out of the town of Caledon and brought in the OPP, which created a section 10 under the Police Services Act. So at this point in time, we have two forces that serve the region of Peel. The region of Peel's police services board is a separate entity where Caledon has no representation at this point in time.

Under the new act, it means that we have to have a choice of two different things. Here is the challenge and the dilemma in how the act is written. We've been doing our homework, and this is how and why I'm here. Do we create a separate board? Because it is big, for the OPP—we have 136 officers—so it means it can stand to have a separate board. But what the act is trying to do is simplify it, that each municipality have one board.

The challenge is that we do not have a place at the regional table. Looking at it at first blush, great. If Caledon doesn't do a separate board and is part of the police services board at the region of Peel, at first blush it looks like this: Yes, we just add two more and have two representatives, an elected representative and a citizen, who would move the board from seven to nine. And it means that we'll now have an elected representative and a citizen under section 10 of the Police Services Act.

The challenge is that when you go in-depth, we don't have the authority or the ability to do that municipally. What it means is we need direction from the province to say, "Okay, in order to accommodate the OPP, then we need to have the region of Peel directed by the province to do that." In the act, it doesn't say that, yet when we look at everything in our governance, we don't have the ability to go from seven to nine. We have to be directed by the province.

These are the two challenges we have. Basically, why I'm here is: Here are my questions; here is my dilemma. I have no opinion on everything. What I'm saying is we just need clarification on how we can move forward. I'm done.

The Chair (Mr. Shafiq Qaadri): Thank you, Mayor Thompson.

We'll now begin with the NDP. Ms. French.

Ms. Jennifer K. French: Welcome.

Mr. Allan Thompson: Thank you.

Ms. Jennifer K. French: I used to live in the little town of Palgrave, and I lived in Bolton for a time, so I welcome you.

I don't have the answer for you, not being in government and just sitting across from them. I will look forward to hearing their answer as you seek clarification. But I wonder if, like you, there are other jurisdictions in Ontario, and other folks who are going to find themselves in a similar predicament. Do you anticipate that? Do you see this as being not just unique to the—

Mr. Allan Thompson: I do know there are other section 10s, especially in northern Ontario, especially Wawa, but it's a little different and unique because it assumed certain areas where we're still part of the municipality. We're part of Peel region. We're 56% of the land mass. We have 69,000, and below us there are 1.5 million in the region of Peel. So it's an urbanized police force, and it's more of a rural police force that serves Caledon.

I have no qualms with how everything operates. It's just, basically, how do we get representation as a section 10 sitting at the police services board? Or do we create another one? Those are our real dilemmas. How do we make it work?

Ms. Jennifer K. French: You had said you don't have an opinion on this; you're looking for clarification.

Mr. Allan Thompson: Yes.

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Ms. Jennifer K. French: But if I pushed you and asked you for your opinion on this, is there a way that you would like to see it work? Or is it really a matter of either/or?

Mr. Allan Thompson: Yes. If you're asking me, I think we already have a very good infrastructure and a very good police services board that serves us well in the region of Peel. So if you were asking me, if I had my choice, I would probably say that it would probably be easier and quicker to just add two more representatives—representing section 10 of the police act—to represent at the police services board. To create another police services board means that, yes, you're just going to add more bodies, but you're going to create another layer of government, or a governing body. We already have something there.

That's what I'm saying: We have two ways to go here, but we just need clarification on the how.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: Unless there's anything else you want to add, it's their turn next, so I'm looking forward to their answer.

Mr. Allan Thompson: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Sandals.

Mrs. Liz Sandals: I am still trying to figure this out; sorry. Is there just one police services board at the moment for the whole of Peel region?

Mr. Allan Thompson: Yes, that's correct.

Mrs. Liz Sandals: So there's one consolidated regional police services board.

Mr. Allan Thompson: Yes.

Mrs. Liz Sandals: The Peel Regional Police provide the policing in Brampton and Mississauga.

Mr. Allan Thompson: Correct.

Mrs. Liz Sandals: That one police board chooses to contract out Caledon to the OPP.

Ms. Sandra Sharpe: It's a regional decision.

Mr. Allan Thompson: Yes, it's a regional decision.

Mrs. Liz Sandals: So it's a regional decision to contract Caledon to the OPP?

Mr. Allan Thompson: That's correct.

Mrs. Liz Sandals: So what you're saying is, you're okay with that structure the way it is now.

Mr. Allan Thompson: Correct.

Mrs. Liz Sandals: You just need the act to be clear that you can continue with that structure. Because at the moment, it looks like the act might require you to set up another police services board, and you're okay with the Peel regional police services board contracting part of the territory out—you, Caledon—to the OPP.

Mr. Allan Thompson: I am, but we have no representation at the board that represents Caledon. That's the challenge.

Mrs. Liz Sandals: So you don't have a seat on the Peel Police Services Board?

Mr. Allan Thompson: No, and that's why I'm saying let's put it under section 10. That's why. We have nothing of the sort. This is the challenge.

Mrs. Liz Sandals: Okay, now I get it. So there is actually a problem with the current structure. You're hoping you can get representation, but you don't actually want another police services board.

Mr. Allan Thompson: No.

Mrs. Liz Sandals: You just want representation on the existing one—

Mr. Allan Thompson: It makes the most sense.

Mrs. Liz Sandals: —and carry on with the contract.

Mr. Allan Thompson: Absolutely.

Mrs. Liz Sandals: It's the seats. Okay, now I understand. Thank you.

Mr. Allan Thompson: Sorry I didn't make it clear enough.

Mrs. Liz Sandals: It's an unusual situation.

The Chair (Mr. Shafiq Qaadri): Ms. Wong?

Ms. Soo Wong: Mr. Mayor, in terms of your seeking clarification on the governance issue, how many persons or representatives are you looking for, for Peel: one or two? I heard it's two.

Mr. Allan Thompson: Yes, it's two. If you read the act, right now it's at seven, so it has to go to nine. So you have one elected representative, which probably will be Caledon, and you'll have one citizen who would be there.

Ms. Soo Wong: Okay. All right. Thank you for that question.

Mr. Allan Thompson: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for coming and appearing here today and presenting your dilemma. I don't pretend to have an answer, but it is a very valid point.

I had been wondering: Have you been getting any communications from the ministry to say, "Hey, how do we get a seat at the table?" Because, justifiably, you need a seat at the table.

Mr. Allan Thompson: Yes. Thank you for clarifying. Originally, they said, "The region of Peel can do that," so we've gone through it. We've been working very closely with the police services board and the OPP. Everybody has been fantastic. Everybody is trying to find a solution here. What we've found is, in the act, it doesn't really clarify. But the way we're structured and the way it's written, we have to have the province say, "You need to move from seven to nine," by adding two representatives from section 10 of the police services board act to represent Caledon.

We just thought, "Okay, it's the first blush. That's what it will look like." But as we started to peel the onion, we got down to the bottom of it and we said, "Okay, we just caught this."

This is why I'm here. It was recommended that I'm probably the right representative to come here to speak on this, so that's why I'm here today.

Ms. Laurie Scott: Absolutely. Okay. Well, I'm sure the government is listening. It's one of those things that—

Mrs. Liz Sandals: Now that we've figured it out.

Ms. Laurie Scott: Now that we've figured it out, that's okay. You just need a seat at the table.

Mr. Allan Thompson: It's an easy one to figure out. It's just that we need the clarification.

Ms. Laurie Scott: We need the clarification. I'm sure that you're very in touch with your member, Sylvia Jones, on this issue.

Mr. Allan Thompson: Yes.

Ms. Laurie Scott: We will definitely keep an eye, to see if it is a place for amendments, or if it is a place for regulations afterwards. I'm not sure what the answer is yet.

I really do appreciate you bringing the subject to the table, and your dilemma. We need to address it. Thank you.

Mr. Allan Thompson: Well, thank you. The executive director from the Peel Police Services Board—we all understand, and that's why I'm here.

Ms. Laurie Scott: Absolutely. I think we all want to help you solve it.

Mr. Allan Thompson: Thank you so much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott, and thanks to you, Mayor Thompson, and your colleague, for your deputation on behalf of the town of Caledon.

CENTRE FOR ADDICTION AND MENTAL HEALTH—EMPOWERMENT COUNCIL

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Ms. Chambers

and Ms. Shields of CAMH, the Centre for Addiction and Mental Health—Empowerment Council. Welcome. Please do introduce yourselves. Please be seated. Your five minutes begin now.

Ms. Jennifer Chambers: Thank you. I'm Jennifer Chambers, executive director of the Empowerment Council. We're a voice for clients with mental health and addiction issues in Ontario to generate systemic change on behalf of this community. We've addressed numerous legislative committees, Senate committees, appeared before the Supreme Court and had standing at numerous inquests.

I'm going to focus on two main parts of the bill. I'll refer you to my paper for our longer submission. One is a request to add to the values forming the bill a statement saying that there's a need for understanding of people in crisis and people of differing abilities. People in crisis are actually a substantial number of the police calls and a substantial number of the people who die in encounters with police, so I think it's very important to specify our community in particular. We want to note as advocates ourselves that the emphasis on independent advocacy in the bill is something we fully support, and the transparency and accountability that are exemplified in the bill.

A concrete step in bringing the community more into the policing framework is the community safety and well-being plans. I think the value of those plans will depend entirely on the composition of the advisory committees that devise them. It has been an oversight that while there's a requirement that people who work with people with mental health or physical health issues are included on the advisory committees, there is no requirement for any inclusion of the community itself. It is a common type of discrimination for people with disabilities to be talked about, but not talked to, so we'd very much like to see added to the list of people included, people representing people with physical or mental disabilities.

Similarly, we'd also like to ask that when the municipal councils consult with members of the public, including members of racialized communities and the First Nations, Inuit and Métis communities, they include people with lived experience of mental health issues in the group consulted by municipal councils. Once again, this is one of the highest-contact groups by police services, one of the groups at greatest risk of death in police encounters and the group most likely to be tasered by police. It's very important that our community be heard, and also that there be attention paid to the intersection of race and mental health, which is a particularly vulnerable intersection.

Go ahead.

Ms. Roslyn Shields: Great. Thank you to the standing committee for the opportunity to respond to Bill 175. My name is Roslyn Shields and I'm a senior policy analyst at the Centre for Addition and Mental Health, CAMH.

Today, I'd like to address Bill 175's proposed Missing Persons Act and specifically section 5, which would allow police to demand the release of records, including personal health information, to assist in the search for a missing person in the absence of a criminal investigation.

Currently, if a person is missing, the police can request the release of personal health information to help them find a person. The Personal Health Information Protection Act gives health care custodians discretion to determine what information to release in response to these requests. Section 5 of the Missing Persons Act would remove this discretion from the health care custodians, and they would have a duty to comply.

At CAMH, we work closely with police when a patient goes AWOL by proactively sharing clinical and risk-related information. We also respond promptly when police call looking for a member of the public who is missing. In these circumstances, CAMH determines which information is important to share—for example, they are an in-patient—without compromising their privacy or the reason for their admission. Under section 5 of the Missing Persons Act, police could demand and receive further personal health information on our patients if they are not satisfied by what's provided.

For this reason, CAMH is concerned that section 5 of the Missing Persons Act will compromise our patients' privacy without enhanced benefit to personal or public safety. Thank you.

Ms. Jennifer Chambers: The Empowerment Council shares these concerns.

As we may have a few seconds left, let me just add that a number of features of the bill reflect recommendations that we've made at inquests into deaths of people with mental health issues in encounters with police. We're happy to see some of these issues addressed, such as, for example, a good foundation for data collection and research in order to make good decisions in the area of policing.

The Chair (Mr. Shafiq Qaadri): Thank you very much for your precision-timed remarks.

We'll now proceed to the government side. Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your written submission. Just going back to your written submission as it relates to the community safety and well-being plan—because I think you're not the only group that asked this committee about this particular plan and making sure this plan is more transparent, and for municipalities to post that. Are you in support of that kind of initiative?

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Ms. Jennifer Chambers: Yes. I think it needs to be a committee that's transparent, accountable and very inclusive.

Ms. Soo Wong: Your comment earlier about the race issue and mental health: Can you elaborate, in terms of this proposed legislation, in terms of greater oversight, greater transparency as well as confidence, does the Centre for Addiction and Mental Health work with collaborative organizations like Hong Fook—that's in my riding of Scarborough–Agincourt—do you believe that

this particular proposed legislation, if passed, will address this issue? Because we heard previous witnesses express concerns to this committee about the marginalized community and the vulnerable populations. Can you share with us—because this is what the intent of the bill is, to provide greater oversight in that particular area.

Ms. Jennifer Chambers: I think it could. I think it's going to depend very much on who composes the advisory committee and who is consulted by the municipalities. If there's broad-based diverse consultation and inclusion, then I think that it could address community concerns.

There also needs to be a process whereby the community participates in the selection of who is going to be representing the community on the advisory committee, so there's a sense of participation and accountability to the community rather than a sense that they were chosen by people who the community may or may not trust.

Ms. Soo Wong: I heard very clearly that your group has asked specifically that survivors are included in the composition. Am I correct in hearing that?

Ms. Jennifer Chambers: Yes.

Ms. Soo Wong: Okay. That's great. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here today before committee and making a great presentation. We've all heard the stories of the mental health situations—the underfunding, and unfortunately, both by police having to pick up that slack, 30% to 40% of their calls in northern Ontario or even higher, and in our jails—it's like a repository, unfortunately, for a lot of patients who need mental health services and are really, actually, breaking the law in some instances just to access services. It makes this all—

Ms. Jennifer Chambers: It's sadly true.

Ms. Laurie Scott: Yes, and I'm sure you can—I didn't know if you wanted, given that background—you know all those statistics—to further flesh out some of the added recommendations that you want to see to Bill 175, and you've touched on them, about having the adequate advisory as well as members. I didn't know if you wanted to elaborate any further on some of the comments.

Ms. Jennifer Chambers: Well, one thing that we didn't put in our response was that ultimately, in order to reduce the number of people who are encountering police and to reduce the number of people in corrections, there has to be a reaching past ministry silos to develop a comprehensive plan of support for people who are marginalized.

People who are marginalized for other reasons often end up with mental health and addiction issues, and people who have mental health and addiction issues fall even further off the grid. Ultimately, both in human terms and in economic terms, it costs our society more not to address things early, but to address them only when we're holding people in custody who shouldn't be there.

Ms. Laurie Scott: Absolutely, and well-said. We all need to collectively—as you mentioned, the silos. That's absolutely been happening. It's a great expense to everyone—to the collective wellness of the person, but also the burden on society and the patchwork system that we seem to have.

Thank you very much for being here and presenting today. Hopefully, you got out all the points you wanted to get out, out. I just want to make sure before—I have 30 seconds, probably, left, so can hardly get anything out. But I appreciate it.

Ms. Jennifer Chambers: I'll say that we also appreciate that they've clarified the name of the complaints officer, because I get a lot of people contacting me with complaints about police who don't understand what the Ontario police review director is.

Ms. Laurie Scott: Okay. That's good. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To the NDP side: Ms. French.

Ms. Jennifer K. French: I appreciate your thorough presentation. I have so many questions, so I'll see if we can get through a few of them.

When it comes to mental health—and we know that more and more often, police become the front lines out in our community, with mental health—is there a way to approach that involving police or whatnot that you would like to see fleshed out in this bill, like, different recommendations?

Ms. Jennifer Chambers: On behalf of the organizations I've represented, I've been involved in inquests into 11 people's deaths, with police, and we've made a lot of recommendations regarding training and performance evaluations. What we have lacked, though, to make really good decisions in that area is concrete data about how training and education are manifested on the street. There really needs to be a means of collecting that information.

The best solution I've been able to come up with through all these different exposures to different situations is the use of body cameras to allow for the collection of how training is playing out in actual interactions with people, because we know how people have learned at the college, but we don't always know what's happening on the street, unless a member of the public accidentally films it. We need the kind of data collection that's encouraged in the bill.

Ms. Jennifer K. French: We've heard "data collection" a lot today in terms of what that needs to look like across the board.

We heard from one of our officers earlier who said, "We all want our officers to be healthy." There is a concerning section in the bill, section 115, which they had brought up, which might be a deterrent to officers who would otherwise seek help for mental health. Is that something that you've actually looked at? Do you have thoughts on that part of it in terms of the mental health of officers?

Ms. Jennifer Chambers: I noted that there's a requirement to accommodate members of police services with disabilities, and we support that, but I can't comment specifically on 115.

I did think that the whistle-blowing protection for police in cases of misconduct was a good addition to the bill, but I actually thought there should be more of an obligation to report professional misconduct. I thought that that might actually protect officers from reprisal.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: Also, you mentioned about the intersections of our racialized community members and mental health. Do you have some suggestions—I'm sure you do—to make a better system?

Ms. Jennifer Chambers: One would be, again, the way the community safety committees are devised. I think that we can bring together such intersections.

But also, at the last inquest we managed to get a committee formed of the police services board that will represent racialized communities. We succeeded in getting one—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French, and thanks to you, Ms. Chambers and Ms. Shields, for your deputation on behalf of CAMH.

TORONTO POLICE ACCOUNTABILITY COALITION

The Chair (Mr. Shafiq Qaadri): I'm now pleased to welcome to the committee a former mayor of the city of Toronto, who served ably from 1978 to 1980: Mr. John Sewell, currently a Toronto Police Accountability Coalition member. Welcome, Mr. Sewell.

Mr. John Sewell: Thank you, Mr. Chairman.

The Chair (Mr. Shafiq Qaadri): A five-minute opening address. Please be seated, and please—

Mr. John Sewell: I'm going to take up 10 seconds by pouring myself a glass of water.

The Chair (Mr. Shafiq Qaadri): Sure. Go ahead. Your time begins now.

Mr. John Sewell: Mr. Chairman, I'm representing the Toronto Police Accountability Coalition. We submitted a brief to the committee, which I think has been circulated to members of the committee, from what I've heard, so I'm just going to talk to it very, very briefly.

Basically, the Safer Ontario Act is a rewrite of the Police Services Act, and it incorporates a lot of the language out of that act. What we have concentrated on in our brief is the elements of the new act that relate to the duties of a police officer and the duties of police service boards. I think that most of the attention of the act is on the review mechanisms and how they can be improved and Mr. Justice Tulloch's report and so forth, but in fact we think that this is the opportunity to get serious about looking at what police officers actually do and what police service boards actually do.

What our brief does is to actually look at what the act says, and then say, "Is that really what happens in real life?" We think the answer is no. We think that, in fact, there should be significant improvement.

For instance, just to take one example, section 1, subsection (3), of the new act says, "The need for co-operation between the providers of police services and the communities they serve." That's one of the principles. But in fact, we think that what it should say is, "The need for co-operation between the provider of police services, social agencies and institutions, private security companies and the communities they serve, including the establishment of formal methods of interaction." We think you have to be really, really specific.

At the moment, there's not a great deal of good interaction between public policing and private policing in Ontario, and that's a problem. The way to deal with it is to actually put it as one of the principles in this act, that that's something that should happen. We aren't saying how it should happen, but we're saying it should happen, just as there should be better communication between social agencies and police services.

1520

We have a number of recommendations about those changes, in terms of the principles in section 1. Then, in section 11, we deal with the question of what it is that police officers should actually be doing. We think that the recommendations that are now many, many years old—I don't think this act has been rewritten for, what, 25 years, but I think the principles here are probably 75 years old. We think they should be looked at more seriously, and we have suggestions about how in fact that should be worded.

As an example, we think that one of the real functions of what officers do is to undertake, with other social institutions and agencies and civil society organizations, steps to prevent crime and criminal behaviour, including, where appropriate, diverting individuals from the criminal justice system. We think you should state that really, really specifically. The idea that police officers are going to prevent crime—as we know, that's a myth. It's not true. It just doesn't happen. But, in fact, working with others, they can have an influence on it. We think that should be very, very explicit and we suggest the wording for that.

Similarly, when it comes to the question of police service boards, we suggest that you should be very clear about what it is that they're required to do. That's in section 37. We think additions should be made, such as the requirement that they review and approve annual operating and capital budgets. At the moment, this is not a very strong function of the police service boards. We think they should be required to encourage community discussion on policing issues and lead public debate. They do not do that at the moment. In fact, nobody is doing that. Our organization tries to, but we don't have the money or the resources. But it's the police service boards that should be. We think the boards should be responsible for ensuring active research and so forth.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. John Sewell: So there are some of the recommendations that we think have not received the attention that they should and that we hope that you as the committee will actually put in place. We don't think these are particularly disputative. We think, in fact, that when people look at them, they say, "Oh, yes, that all

makes sense." So these are not divisive things that we're recommending. They're very simple, but they need your attention. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sewell. We'll pass it to the PC side. Mr. McDonell.

Mr. Jim McDonell: Thank you for coming out. Do you have any other points you'd like to make, or any to highlight?

Mr. John Sewell: Well, we'd love it if you could strengthen the section about officers being suspended without pay. There are some minor recommendations about how they can be suspended without pay that are in the act, and they move in the right direction, but in fact we think that you should probably adopt the advice that Alberta has, which says it's in the discretion of the chief. Quite clearly, if the chief does something wrong, it's going to be grieved, and that's perfectly fine, as well. But we think there should be much more discretion on police management about being able to suspend without pay. We have some wording that we suggest on that, as well.

Mr. Jim McDonell: Okay. Now, you talk about active research not being done today. What are some examples? You're talking about—

Mr. John Sewell: I'm sorry, I didn't hear the beginning.

Mr. Jim McDonell: Active research not being done—you're asking that the police service boards be given more authority or responsibility to do that?

Mr. John Sewell: Well, I think that if we actually started to understand what other police services are doing and how they might approach it, that's going to help us all. I can give an example. In Ontario, we've had the SIU for—20 years now? A long time. It's only now that some other provinces are saying, "Oh, we should have one of those too." That's the situation where I think police service boards in other jurisdictions have not done the kinds of research that they should.

I suspect there's lots of other things where they could do it. I can talk about two things that our organization has done. One is we've done research into the question of the crowns monitoring the charges that police are laying. So if you want to lay a charge as a police officer, you have to get the approval of a crown. It's research that we've done, and, in fact, what has been shown is that it happens in Quebec that you can't lay a charge unless you first get crown approval, and the number of charges that are laid are substantially less than in Ontario; the number of charges that are withdrawn are substantially less than in Ontario. So that's a piece of research that if we had done really well with police service boards here in Ontario 10 years ago, when they did it in Quebec, we'd be saving an awful lot of money. So that's one piece.

The two officers in a car is another piece of research that we've done showing that this is an absolutely crazy thing. We don't need it, it's a waste of money and so forth.

So there are two examples that we have done that the police service board should be doing.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McDonell. To the NDP side: Ms. French.

Ms. Jennifer K. French: I appreciate your presentation, and welcome to Queen's Park. You're part of a coalition that is—is it community-organizations-based, individuals, just sort of concerned parties?

Mr. John Sewell: Yes, yes. It's a very loose thing. We've been together for 17 years. We think we're the only organization in Canada that tries to spend its time looking at police policies and bringing forward some good, critical ideas and some alternatives, and we've been doing that.

Ms. Jennifer K. French: And thank you. I finally found your submission here, so I've got it in front of me.

Mr. John Sewell: Good. Terrific. It's a good one.

Ms. Jennifer K. French: It seems to be.

Mr. John Sewell: We tried to be very clear in saying, here's what you might do.

Ms. Jennifer K. French: Yes, and very thorough, I was going to say. But one of the pieces that you had mentioned that I kind of twigged to, and I'm looking at it here, is you're making a recommendation—this is in the principles section—to reword. Rather than "the need for co-operation between policing providers and the communities they serve," you're suggesting an amendment: "The need for co-operation between the provider of police services, social agencies and institutions, private security companies, and the communities they serve."

Mr. John Sewell: Being very specific, yes.

Ms. Jennifer K. French: You've put private security companies in here under "policing," where that's private and outside of the accountability framework currently. What are your thoughts on that? Because we've had some concerns about privatization. We always, as New Democrats, have concerns about privatization and the lack of accountability.

Mr. John Sewell: I wasn't talking about privatization. In fact, there are more private security officers now operating in Canada than there are public police officers.

Ms. Jennifer K. French: So you're not suggesting that they take over more police duties.

Mr. John Sewell: No, I'm not.

Ms. Jennifer K. French: Okay.

Mr. John Sewell: I'm saying that we should be figuring out ways that they can co-operate better. You must remember that private security officers control all mass public space, basically, in the country: all shopping centres, all big sports arenas and so forth.

Ms. Jennifer K. French: And fall outside of an accountability framework that we're looking at here.

Mr. John Sewell: They do, and in fact, that's something—certainly, I'd be willing to talk about that; that might be useful. But, in fact, police should be talking to those security things and they should be talking to the police.

Ms. Jennifer K. French: And a question: We're glad to have you here today and your submission, but have you had the chance to consult with the government prior to today?

Mr. John Sewell: Oh, we've met with a number of ministers on many occasions. We try to do that. Marie

Lalonde, we've met with her; Yasir Naqvi, we've met with him. Yes, and we've given them our advice on things they might do, and some of the things they actually are doing.

Ms. Jennifer K. French: So 17 years in the making.

Mr. John Sewell: It's taken a long time, yes.

Ms. Jennifer K. French: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side: Mr. Potts.

Mr. Arthur Potts: Thank you, John. It's great to see you here again.

Mr. John Sewell: Thank you, Arthur.

Mr. Arthur Potts: For those of you who don't know, Mr. Sewell wrote a fantastic book years and years ago: Up Against City Hall. That was my first piece of political advocacy literature, and it's a must-read for all politicians about how to get your way at city hall.

You continue this incredible work and I want to thank you and the coalition for the analysis that you've done because we are seeing a lot of that advocacy reflected in this, particularly the notion of more civilian oversight. My board experiences all relate pretty much to the city of Toronto and that relationship and how, over time, this council has been able to get more and more control, but still more may well be needed. So I appreciate what you've done on that over the years.

1530

We had a deputant earlier who was talking about the size of the boards. They were recommending for large organizations like the city of Toronto that—I think seven is the max we go to now. They were recommending we go to 11, and that would help better reflect diversity. Would you be a supporter of that kind of a move?

Mr. John Sewell: Yes, I would. The new act takes it up to nine. We actually recommend in here 15.

My theory on this is pretty simple. The smaller the board you have, the less dissension you're going to have. People don't want to disagree when there's a small number in the room. Have a larger number in the room and people feel that they can have disagreements without too much trouble.

It seems to me, when it comes to policing, you want to have a lot of opinions around the table. Often, you don't now. Police service boards, as you know, when you go to them, they are closed shops. It is very, very discouraging, in my mind. I think Toronto has the best board, and it's not very good, in my opinion. Some of the others I've been to—it's very discouraging.

So the larger, in my opinion, the better—up to about 15. It will also allow a lot more diversity. If there's one thing we need, it's diversity. Yes, I support larger boards, 11 or 15; that would be good, certainly.

Mr. Arthur Potts: You also talked about oversight of a budget. Of course, that happens in Toronto. I guess I'm inferring from that comment that we're not seeing it happen across the province, which would be news to me. I thought all boards—

Mr. John Sewell: That's right, that's right.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. John Sewell: We made some recommendations to Mr. Naqvi earlier, when we heard he was redrafting the thing, saying that in fact they should be trying to reduce the number of boards out there. They have some service boards out there that are in control of six police officers. This is craziness, absolute craziness. I'm not quite sure how you do it, but I think if you had some, you know—

Interjection.

Mr. John Sewell: Yes.

Mr. Arthur Potts: Thank you very much. I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Sewell, not just for your deputation today but for your decades of service to the city of Toronto.

Mr. John Sewell: Thank you. I appreciated being here.

NISHNAWBE ASKI NATION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters—please come forward—of the Nishnawbe Aski Nation: Mr. Falconer and Mr. Boissoneau. Thank you, gentlemen. Please be seated. You will have five minutes to make your opening address. Please do introduce yourselves as well. Your five minutes begin now.

Mr. Julian Falconer: Good afternoon, Mr. Chair and members of the committee. My name is Julian Falconer. I am legal counsel who does not a modest amount of work on police accountability issues—I say, with some regret about my white hair.

Mrs. Liz Sandals: Me too.

Mr. Julian Falconer: Thank you for that. I appreciate that, MPP Sandals. It's nice to have someone who helps me.

Beside me is Travis Boissoneau, who is the chief administrative officer of Nishnawbe Aski Nation, and he will commence our remarks.

Mr. Travis Boissoneau: Good afternoon. Thanks again for taking the time to hear us out.

First off, I'd like to acknowledge the partnership between the province of Ontario, through Mr. Naqvi and Minister Lalonde's office, with Nishnawbe Aski Nation and Nishnawbe-Aski Police Service.

For those of you who may not know, the legislation barring the indigenous policing portion arose from a four-year table known as the Adequacy Standards Table. Again, that was in partnership with the province, Nishnawbe Aski Nation and NAPS—NAPS being the largest indigenous police service in Canada.

NAPS has been fighting for this type of legislation since its inception in the early 1990s. The new legislation will give First Nations the ability to access various police oversight bodies, from special investigations to complaints. It's imperative that the individuals within these agencies have the skills and knowledge required to provide culturally appropriate services to First Nations. Regrettably, neither MCS nor the agencies are where

they need to be, in their current state. I say this after four years of concentrated negotiations.

It's important that the agencies are structured so as to best ensure that cultural competence is woven throughout the system. As stated by Justice Tulloch, "for competency development to be truly successful, it will need to involve critically assessing organizational policies, programs ... and general practices." He goes on to say that they should be "consistent, comprehensive, and mandatory for all staff." These efforts need to be monitored and measured.

There is a wide variety of skills required within the oversight bodies to adequately understand the complex issues that our First Nation communities face, and quite frankly, systemic racism is one of the issues.

We are confident that, with meaningful inclusion of the indigenous population in the creation of the regulations, we, as a team, can get this right. We also encourage the affected ministries, namely the Ministry of Community Safety and Correctional Services, to partake in the same level of education and systemic review.

Throughout our work, we have acknowledged that there is a clear gap between the values expressed by the Premier and Minister Lalonde and the bureaucracy and, further, the legal advice that they receive. This void is intolerable, especially for a ministry that is responsible for the provision of adequate and effective police services, negotiating First Nation police services agreements, the provision of funding and the drafting of policy and legislation that affect indigenous lives. These same values expressed by the provincial leaders have to govern the behaviour of the bureaucracy. Again, after four years of a very challenging exercise, it's clear that cultural competence remains absent.

MCS can look to its colleagues at the Ministry of the Attorney General and the indigenous justice division and consider in-house expertise. In the meantime, we strongly urge that MCS engage with the Ministry of Indigenous Relations and Reconciliation—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Travis Boissoneau: Did you want to add anything?

Mr. Julian Falconer: Speaking to issues of larger police accountability, I have had the honour of representing the families of Edmund Yu and Wayne Williams—I acted in the Lester Donaldson case—the family of Sammy Yatim; Dr. Abouhassan; currently, Dafonte Miller; and the families of Schaeffer and Minty. I just want to say this: You cannot, with all due respect, wait—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Boissoneau and Mr. Falconer. The NDP is welcome to offer you time, but it passes now to Ms. French.

Ms. Jennifer K. French: Please continue.

Mr. Julian Falconer: Thank you.

You cannot wait. I understand that you were urged to delay the passage of this bill. You cannot wait, because by waiting, you signal to those who are most vulnerable to police misconduct that their losses and their tragedies will simply continue to be systemically overlooked.

I recognize and acknowledge the important role that police play in society and that there are many good police officers. Sadly, with all due respect, I'm kind of like a cancer doctor. I end up dealing with the police misconduct cases and I see the bad policing. I'm here to tell you that going to the Supreme Court of Canada twice on SIU investigations being undermined, acting in the Dafonte Miller case that's playing out right now with, again, an SIU investigation that is undermined—each time that happens and we have to have this forced litigation to produce an answer, you erode society's confidence in policing. Why this legislation matters is that it creates clear rules, it ensures that there are actual consequences for undermining an SIU investigation, and it gives guidance to good police officers and good leaders.

When you were urged this morning to delay this to a new government, sadly and with the greatest of respect—lawyers always say that when they're about to deliver a shot—what you're hearing from those who are being babysat is that they don't want a babysitter. Well, that makes sense. The police union wouldn't want oversight, but it's our job to make sure they have oversight so that we help them help us.

I encourage you, with the greatest respect, to understand the total betrayal for indigenous interests if you were to delay passage of this bill. They have been waiting decades to have safety backed by the rule of law. They represent the only members of the Ontario public who do not have safety backed by legislation and they stand to achieve that. Delaying that would deprive them. Delaying this legislation would mean that we would continue with these fractures in society around police accountability issues.

I simply urge you to move. I give the government credit. It's not a perfect piece of legislation, but they deserve credit. They do. And I am not one known for being that supportive and glowing about government, so it means something. Thank you.

Ms. Jennifer K. French: I'm also not that glowing about government. I get to sit across from them.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Jennifer K. French: I'll take them.

1540

When you made the point—and point clearly taken—about disappointedly recognizing the difference in values between—you had mentioned the Premier and Minister Lalonde, the bureaucracy, legal counsel. Point taken. I hope that the government will also speak to that, but certainly I'd be interested in the specific regulations you're looking to see or some of those pieces. I'd like to ask the Clerk if there is a submission, if we have that. Did you submit—

Mr. Julian Falconer: We have not done a submission, but one is coming because—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French.

Ms. Jennifer K. French: That's fine. I look forward to it.

The Chair (Mr. Shafiq Qaadri): You're welcomed to pursue that afterward.

To the government side. Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. I'll look for your written submission.

Going back, you mentioned earlier dealing with the whole issue of cultural competence. Know that our ministry, MCSCS, is working towards dealing with regulations. Just remember that this hasn't gone off the rails, because we are proposing this legislation. We have to get this legislation passed. Mr. Falconer, we are determined to get this legislation passed, just so you know. We're not going to be waiting, okay?

I wanted to hear from you, because we heard earlier from the Chiefs of Ontario, who came before us this morning overwhelmingly supporting the legislation, asking us to tweak certain wording, as well as the bylaw enforcement piece and the OPP. I wanted to hear from you, with respect to the proposed legislative changes, how it will improve—we've got to be better, because right now it's not working—and achieve better policing outcomes for First Nations communities. That is what the government is intent to do. I wanted to hear from either one of you or both of you. That would be great.

Mr. Travis Boissoneau: Just again referring to the past four years: We actually sat at the table and went through a lot of the technical aspects. I'll just say in short, we've lost lives due to lack of infrastructure. We've lost lives due to just a lack of adequate policing. Our communities suffer from maybe having one police officer. They are being asked to be a firefighter, a social service worker. The resources within the community aren't—because it currently sits as a program, there is no legislation backing standards. That's the overarching goal.

Julian wanted to add—he's been at the table for the last four years.

Mr. Julian Falconer: I want to emphasize this: Part of the reason it's so important to pass this legislation as it relates to the indigenous policing is that it comes as a product of actual collaborative drafting. Nishnawbe Aski Nation and NAPS, as the largest indigenous police service in the county, sat at the table with MCS officials, and others from MAG, as well, and worked together on over 100 amendments.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Julian Falconer: This is a product of a pretty groundbreaking collaboration.

Now I flip to the other channel. When I'm doing police accountability issues, I'm in the Supreme Court of Canada. Families are dragged through a court system and legal battles for years. That's not a great way to effect change. I've seen both, and you need to give important support for what was an important collaborative venture.

Having said that, sadly—and I report this—at the bureaucratic level, MCS doesn't even register on the meter with—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you both, Julian and Travis, for being here with us today. I wanted to bring it back to Travis. I don't know if you got a chance to really finish what you were saying about the relationships that you do have, which I think are fairly good, the relations with other police services. "The largest police force in Canada" is quite a statement. I think we all want to see improvements for indigenous people. I didn't know if you wanted to elaborate on that a bit—just the relationships and what you see.

Mr. Travis Boissoneau: Again, I came here to focus on the whole cultural competency piece. Once this legislation passes and all the regulations—we're hoping to be a part of the regulation process or development process. The whole concept is to ensure that people who are working even with our police force fully understand what exactly they're dealing with, and not just in terms of the service that they provide, but the population that they're serving.

In terms of the bureaucracy, it is a struggle. It's not just a struggle with MCS; there is a whole population in the north that we've been working with over the past few—well, NAN has been doing this for over 30 years. We're doing our best to bring our population and the issues to the forefront, because we need the province and the feds to understand that there are people who live up here in a unique way, and they have a right to the same services, whether that be policing, health care or education. When I mention systemic racism, when there's a struggle to get adequate police servicing to a First Nation community versus the services provided everywhere else, to me, it's blatant. I think the work that we're doing—the province as well—is trying to bring it to a safe, healthy place for our communities.

Ms. Laurie Scott: Very good. How much—

The Chair (Mr. Shafiq Qaadri): Forty seconds.

Ms. Laurie Scott: Oh, 40 seconds. Well, I can't really do too much in 40 seconds, but thank you for the patience and the collaboration that has gone on. I'm hoping this bill, if there are amendments that could be made to strengthen it, to change it—and if the regulations come forward, you definitely have to be part of those regulations. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott, and thank you, Mr. Falconer and Mr. Boissoneau, for your deputation from the Nishnawbe Aski Nation.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I'd ask our next presenter to please come forward: Ms. Dollin, president of AMO, the Association of Municipalities of Ontario, and your colleague. Thank you, Ms. Dollin. To your colleague, please be seated. As you know, your five minutes begin now.

Ms. Lynn Dollin: Thank you very much, Mr. Chairman. My name is Lynn Dollin. I am the president of the Association of Municipalities of Ontario, which governs

almost all of Ontario's 444 municipalities. With me today is Matthew Wilson. He's a senior policy adviser with AMO as well.

Ontarians pay the highest policing costs in the country. Most of these dollars come from municipal property taxpayers. Ontarians also pay the highest property taxes in the country. If our property taxpayers in this province paid the per capita average for policing of all other provinces, we would have $500 million a year in savings. Those $500 million would make a solid contribution to the costs of other services that keep people safe and healthy.

Legislation drives the cost of services. Policing is no different. There are some changes in schedules 2 to 4 of Bill 175 that will advance the agenda to modernize policing, particularly with respect to the oversight agencies, and we support those changes. There are some other elements of the bill which will drive up municipal costs and police budgets. After six years of discussion, six years of our participation in the ministry's process to consider the future of policing, I wish I could tell property taxpayers more was being done to stabilize or reduce these costs.

In our brief time, I will highlight just two key areas where even small changes might make a difference to improve the efficiency or effectiveness of policing.

(1) Most Ontario communities are small. I'm concerned about their capacity to develop community safety and well-being plans without provincial support or assistance. For example, 190 municipalities have six or less full-time administrative staff. Eleven municipalities have only one full-time administrator. I'm concerned this new unfunded mandate will be setting small communities up to fail.

The bill compels municipalities to bring various groups, including provincial employees and agencies, to the table, over which municipal councils have little control or no control to direct. An errant individual or agency wholly unrelated to the municipality could hold a council hostage by choosing not to participate.

If legislation is going to direct municipalities, it should equally direct and compel provincial agencies and police services to participate as well. If the minister is prepared to assume the powers of a council that does not adopt and implement a plan, then the minister must also take the necessary steps to ensure everyone who needs to be at the table is at the table.

(2) We must set up police services boards to succeed. They will only be successful if they are representative of their unique communities. This bill would eliminate nearly 100 police services boards in rural and northern regions. No one can argue that this puts much more distance between the police, its civilian boards and its local community.

1550

For this change to be successful, the bill must be changed to provide that every municipal council will have at least a seat at the table of an OPP board. In addition, provincial appointees to a police services board must be done in a timely way that enhances diversity, with a skill set that contributes to good governance. There is nothing in this bill that speaks to provincial performance on this.

We also believe that the bill needs to clarify who has the mandate to support boards. There needs to be an organization named in this bill that has been established to help police board members fulfill their governing function.

I see a lot of sticks aimed at the police services board and not a lot of carrots. It is worth remembering these board members are community leaders and they're fellow citizens. For all intents and purposes, they're volunteering on behalf of others to take on this task of police governance. They perform a vital function in our democracy. They deserve to succeed. We need them to. Our submission provides a number of other examples of what this bill could do to help boards do their job well.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Lynn Dollin: Municipal leaders are seeking legislative change that promotes the effective and efficient delivery of public safety through policing. After six years of discussion, this is the time to look at the fundamentals upon which police services have been built, and lay the foundation for quality delivery into the future. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Dollin. To the government side: Ms. Mangat.

Mrs. Amrit Mangat: Thank you for your presentation.

The mayor of Caledon, Allan Thompson, said before in his presentation that Caledon doesn't have representation at the Peel region police board. This act allows municipal governments the freedom to increase the size of their police services boards if they choose. Can you talk about that to us? What is the importance of that flexibility?

Ms. Lynn Dollin: I think that making the police services boards larger will help, but that still won't help in all instances where there are many municipalities served by one board—in the fact of York region, for instance. I can think of the OPP detachment in Nottawasaga. Certainly once you get up into the north—with all due respect to the former mayor of Toronto, you can't compare Toronto to Kapuskasing and Kenora district and the fact that one OPP detachment could be 200 kilometres from end to end. Making that distance between the residents and their board and the police will only cause trouble, as opposed to help bring things together.

Mrs. Amrit Mangat: Okay. I have a second question. We have heard from police associations their concern about privatization. What is AMO's position on that issue?

Ms. Lynn Dollin: First of all, we did submit recommendations, 34 of them, back in April 2015, and one of our top three was the ability in certain cases for privatization. You don't need a master mechanic to perform an oil change, and that was a comment from the assistant commissioner in the RCMP. There are lots of

examples of where there could be a job done by someone other than a policeman with a gun. A good example would be guarding a manhole in a construction activity, or hitting a button on a traffic signal in a shopping mall. You don't need someone in those cases, but you do need to make sure that the people who are trained and have the gun are available when you do have an emergency, to keep the people safe.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mangat. To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here today.

You had mentioned the police services board. We've heard other presenters say there are police services boards with only six police officers. I don't have your recommendations in front of me—I'm sorry about that—but do you want to make any more points about the flexibility that you'd like to see for forming police services boards and the composition?

Ms. Lynn Dollin: Thank you for that question.

Through you, Mr. Chair, I think the most important message that we have is, for the most part, municipalities sign the cheques, and we are the closest to the people. When there is a problem, it's the local councillors, the local mayor who hear about the issues. We know what the systemic issues are in our municipalities.

We also are the ones who provide the money for the police service to run.

Other than our representation on the board, we have not a lot of control. When the police come to our council with a budget, we're not allowed to go line to line through that.

Dare I even bring up interest arbitration and the costs that have escalated for first responders like police and fire over and above what all of our other workers have negotiated through a contract?

All of those things have helped to escalate the cost of policing, and very few of them are within the control of the municipal council. So, having representation on that board, and making sure our voice is heard on that board, is extremely important.

Ms. Laurie Scott: I've heard from some municipalities on the new diversity plan process that the legislation introduces. Could you tell us what kind of burden for some of the smaller municipalities that could bring onto your members?

Ms. Lynn Dollin: I would actually look to more diverse police services boards. Again, it talks to the uniqueness of the police services board, and where you are in Ontario.

Certainly, one of the issues that we've had in the past is having vacancies far too long. I spoke in my remarks about the fact that there is nothing in the act that governs that performance. At this point, sometimes it has been a year that we've had a vacant spot, and then perhaps somebody—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Lynn Dollin: We're hoping that that provincial appointee will also consider the diverse nature of whatever the unique community is.

Ms. Laurie Scott: Thank you very much for presenting here today.

The Chair (Mr. Shafiq Qaadri): To Ms. French and the NDP.

Ms. Jennifer K. French: Hi. Welcome to Queen's Park.

Ms. Lynn Dollin: Thank you.

Ms. Jennifer K. French: I had a few questions. As you said, many of your communities are small. To Ms. Scott's question about the safety and well-being plans—you had mentioned that it would be challenging, if not potentially insurmountable, to do it without the provincial supports. What could that support look like?

Also, I heard what you said about ensuring others were participants as well—that they couldn't hold someone hostage, as you put it, or that sort of thing. If you have specific thoughts on how to smooth that, or support—if that's a go-ahead.

Ms. Lynn Dollin: Certainly. Thank you, through you, Mr. Chair. I almost feel like a broken record sometimes. Unfunded mandates: So much of the time, there's legislation that comes towards municipalities that affects us, and all of it great—most of it, anyway—very, very good ideas, and really good things to do. So are safety and well-being plans—very good things to do. But it's another unfunded mandate. Remember, municipalities get nine cents of the household tax dollar—nine cents—and that goes to paying for our police.

What we're asking for, particularly in the smaller municipalities, is that there be some kind of a fund or assistance or a resource for them, to help them with the process that's going to be required. The act certainly says, "If you don't do it, we're going to do it for you, and we're going to bill you for it." All municipalities want to do what's best, but you have to look at the resources within each one.

Ms. Jennifer K. French: To that point, with the resources, as you said, we can't compare Toronto with Kapuskasing—or that's not a fair comparison. Are there other regional concerns that we aren't seeing reflected in this legislation or that create problems for different locations?

Ms. Lynn Dollin: Matt, do you want to take that?

Mr. Matthew Wilson: Certainly, when you look at the amount of consolidation—

The Chair (Mr. Shafiq Qaadri): Introduce yourself, please.

Mr. Matthew Wilson: My name is Matthew Wilson. I'm a senior adviser with the Association of Municipalities of Ontario.

When you look at the ability of boards—if you make them too big over too large a geographic area, they can't be representative of local interests. In all the work that we've done, people care passionately about policing. It is fundamentally a local thing; it's a local service. But if the folks who are controlling it are hundreds of kilometres

away and you don't have a say, then you're not going to feel that your needs are being reflected. Having boards being able to fulfill functions within a reasonable geographic size is certainly a very important element.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French, and thanks to you, Ms. Dollin and Mr. Wilson, for your deputation on behalf of AMO.

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MS. KELLY DONOVAN

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Kelly Donovan. Welcome, Ms. Donovan. You have five minutes for your address. Please begin now.

Ms. Kelly Donovan: Thank you. My name is Kelly Donovan and up until June 2017, I was a police officer with Waterloo Regional Police. I represent thousands of police officers from across Ontario and Canada. I do not support Bill 175 as it stands now.

During my time at Waterloo, I witnessed misfeasance during internal investigations of other police officers at the service; more specifically, unlawful arrest of members, corrupt investigations and criminal allegations being overlooked. Waterloo only allows members of the public to make a complaint of misconduct, and the OIPRD does not accept complaints from police officers. Therefore, I made a lawful delegation to my police services board to disclose the misconduct of several high-ranking members of the service and, as a result, I was disciplined and silenced.

Chief Bryan Larkin ordered me to have no further contact with members of the board. I was relegated to administrative duties and I was put under investigation for eight Police Services Act charges. There was never a complaint from a member of the public; this was the result of a chief's complaint. Over the next 14 months, I was constructively dismissed. Chief Larkin used the Police Services Act to silence me so that I could no longer disclose to the board the unethical conduct happening within the service.

Following my delegation to the board, another police service was contracted to conduct an impartial review of a recent internal criminal investigation. That review was negligent and biased, and is irrefutable evidence that when police investigate police, there is bias.

During my constructive dismissal, I wrote a 93-page report citing cases that show just how systemic misfeasance is in Ontario police services and how often police chiefs and ineffective oversight bodies are able to silence police whistleblowers. This report is contained in tab A of my submission. I made complaints to all of the applicable police oversight bodies and none of them chose to enforce their legislated authorities.

In June 2017, a $167-million class action lawsuit was filed against Waterloo, and I believed that politicians would now start to listen to us police officers trying to expose to you what goes on behind closed doors. Two weeks later, Chief Larkin was elected as president of the OACP, and it became very obvious to me that police chiefs in Ontario are above reproach, as a result of our current and proposed legislation.

When I resigned, I sent my report to 200 politicians in Ontario. Those emails are listed in tab B of my submission, and I believe five members of this committee were on that list. I received a cookie-cutter response from Minister Lalonde and I never received a response from Minister Naqvi at all.

Despite Justice Tulloch recommending a whistleblower program for police officers as a result of submissions like mine, this did not make it into the bill. In fact, I don't believe my report had any influence over Bill 175 in any way.

I have three suggested amendments to the bill:

(1) I would recommend that the bill be amended to combine schedules 2, 3 and 4 into one special investigations unit. It is inefficient and costly to the taxpayer to have three separate oversight bodies—the discipline tribunal, inspector general and the SIU—all while still permitting chiefs to conduct their own investigations. This does not allow for more accountability and transparency

Each of these bodies determines if there are grounds for a criminal or provincial offence, including misconduct. The only differences between these bodies is who they investigate and from whom they receive their complaints. These investigators will be the most skilled, knowledgeable, objective and ethical people, so why would we not maintain one central agency, with satellite offices where resources can be shared? By changing the definition of "official" to include all persons in policing, the SIU would therefore investigate all complaints of criminality or misconduct, including the chief.

(2) Alternatively, I would like to see changes made to part VI of schedule 1. Chiefs should not be exempt from disclosure requirements because they are not above the law, inspectors should not be current officers, and it is blatantly obvious that a conflict of interest exists when you allow chiefs to investigate each other for criminal offences.

(3) With regard to part IX of schedule 1, police officers should always be afforded the right to an impartial investigation. This is not achieved by allowing chiefs' complaints. Under the bill, officers lose their right to a fair trial, which violates their constitutional rights. Only after a sanction is imposed can the officer appeal the decision. All allegations of misconduct should be handled by one central agency for consistency and fairness. This would end internal systemic misfeasance. I have 500 signatures on a petition to support that recommendation.

The lack of consultation prior to the release of Bill 175 shows a continued reluctance by government to accept the gravity of internal corruption that exists within our police services.

I am living proof that internal corrupt practices are eliminating—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Kelly Donovan: —good, honest people from the profession. I was an exemplary police officer until Chief Larkin used internal discipline to constructively dismiss me. Nothing in Bill 175 would prevent what happened to me from happening again to another honest police officer. In fact, after I was diagnosed with post-traumatic stress disorder last February, I could have faced termination under part VII of schedule 1.

This bill was prepared in haste without adequate consultation with the right people. If police officers were not scared into keeping quiet, you would receive hundreds of submissions just like mine.

I appreciate the opportunity to address you today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Donovan. We'll begin with the PC side. Ms. Scott.

Ms. Laurie Scott: Thank you very much. That's quite a detailed report. On the consultation part—I didn't know if you wanted to finish off anything more that you wanted—five minutes is a very short time.

Ms. Kelly Donovan: I surprisingly got it all in. Thank you.

Ms. Laurie Scott: You did. Okay.

On Bill 175, you did mention schedules in that. I didn't know if you wanted to speak about the consultation process in this bill—that it's not going to address what you experienced, and if you would just expand.

Ms. Kelly Donovan: I think it has to be known that police officers are scared into not speaking about anything. That's common knowledge within the policing community.

I attended one of Justice Tulloch's public sessions as a way to voice my concerns to Justice Tulloch. I was one of the only officers in the room. That was in London.

When I attended the Kitchener session, it was full of members from the service, of very senior ranks. The image that was put forward was that you don't speak up, you don't attend and you don't give your feedback to these public sessions or you will be disciplined. That's why I think there's a huge voice that is necessary to be heard in this process that is being silenced by legislation currently.

Ms. Laurie Scott: Do you feel in Justice Tulloch's report that—what part is missing?

Ms. Kelly Donovan: I know there's protection against reprisal, but there's no deterrent for reprisal. There is no whistle-blower protection in Bill 175 that would allow an officer to anonymously report misconduct from inside.

Ms. Laurie Scott: That's very different from Justice Tulloch's—

Ms. Kelly Donovan: Justice Tulloch was recommending the whistle-blower, because he understood the importance for that anonymity—and that was not addressed in Bill 175.

Ms. Laurie Scott: Do you feel it's right across policing? Do you feel it's gender—

Ms. Kelly Donovan: No, I think it's men and women. Since the time I resigned very publicly, I get calls daily from officers who say, "I'm being put through the same thing." That's why it's so important that there be an opportunity for those voices to be heard, where they know there won't be any repercussions for them having spoken out.

Ms. Laurie Scott: You have made this very passionate plea. You've written a book. I'm a bit surprised that Justice Tulloch got—even though you feel that you weren't heard publicly when he was out there making his—

Ms. Kelly Donovan: I apologize. What I meant was that Justice Tulloch did listen to me.

Ms. Laurie Scott: Yes, that's what I mean. You were right there; Justice Tulloch listened. He made the recommendation, yet we don't see that in Bill 175.

Ms. Kelly Donovan: That's correct.

Ms. Laurie Scott: Okay. I think you've made that very clear. Thank you very much, Kelly, for all your work.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To the NDP: Ms. French.

Ms. Jennifer K. French: Hi. Welcome. You got a lot into that presentation. I'm impressed.

I have a question here. I'm looking at almost the first page of your report here. You said that no oversight body has chosen to exercise their legislated authority and investigate. Perhaps you can clarify that for me, so that I have a bit more understanding of the internals and what you mean by that.

Ms. Kelly Donovan: The complaints that I made to both the OIPRD and the OCPC were both within their legislated mandates. They were complaints about people whose conduct they should be overseeing. They came from the right person. I got letters back saying that those investigations were not in the public interest, and they chose not to investigate them.

There have already been reports done where it's been stated that an internal affairs matter is a matter of public interest, because that's when police officers uphold their most integrity. How can we say that an internal matter is not a matter of public interest? If we have officers who are committing misconduct or illegal acts behind closed doors, the public needs to know that. That's where there needs to be more accountability and transparency.

I believe I did contain those letters in my submission, just so you can reference them. My responses from the OCPC and the OIPRD are both in the submission.

Ms. Jennifer K. French: Do you have specific recommendations that would address that specific piece that should be in this legislation? I'm hearing you say it's a missed opportunity, but do you have thoughts on what the specifics should look like within legislation?

Ms. Kelly Donovan: I believe there can't be any persons in policing who receive any type of immunity. I think that's where the transparency piece comes in. If it's a matter of an issue being of public interest or not being of public interest, then there has to be a public board that is consulted, a board of representatives from the community, and ask them, "Is it in your interest that we investigate this matter?" Nine times out of 10, they're going to be saying yes, where the politicians are going to be saying no.

Ms. Jennifer K. French: As you said, you feel heard by Justice Tulloch on the whistle-blower provisions that aren't in this bill. Do you have any guesses on why it would not be included in this bill?

Ms. Kelly Donovan: I think there's an honest trust and belief that a person who comes forward would not be penalized. I honestly believe that that is the trust among politicians and the community—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Kelly Donovan: —but I'm here to say that that's the opposite. That is the fear. Officers don't come forward, even if it is encouraged. They don't, because they know there will be repercussions. That's the reality.

Ms. Jennifer K. French: So the idea of it is that, like you said, there's no deterrent for a reprisal.

Ms. Kelly Donovan: Right.

Ms. Jennifer K. French: Again, what do you think that should look like?

Ms. Kelly Donovan: It would be nice if there was an offence that was almost as punishable as an offence against the SIU. If a boss took reprisal action against someone because they reported an incident, that person taking the reprisal action should be punished.

Ms. Jennifer K. French: Okay. Some light reading. Thank you.

Ms. Kelly Donovan: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your collective notes to us about what you have done.

In the proposed Bill 175, the government is proposing the inspector general position. I want to hear your opinion, so I'm going to ask you very pointedly, because of time. How do you feel about this particular position in terms of increasing police accountability and transparency—and some of your concerns? This is the public hearing stage and we're still listening to people. Although you said you don't support this proposed bill, we heard previous witnesses totally support the bill. I need to balance this piece, because the previous witnesses were the Chiefs of Ontario, and they told us, "Don't delay any further." So I'm going to hear your views. I want to hear what you have to say about this inspector general position.

Ms. Kelly Donovan: Right. So under the inspector general section—I think the opinions that you're hearing that are supporting it are the people who are given the power under that inspector general section, so the chiefs of police can decline to provide disclosure that's part of an investigation. There's an exemption of chiefs of police under that section, where they do not have to make a disclosure. If you're a subject officer in an SIU, you would be forced to, but chiefs don't have to.

The other thing is that if there's a criminal allegation against a chief of police, they appoint what the bill says is an "unrelated police chief" to do the investigation, but there is no such thing. You look at every police chief, and they've progressed through their careers with each other. They all go to these camp retreats together. Some of them have dinners outside of work together. It's a community of friendships. You can't appoint a chief, basically an equally ranked officer, to do a criminal investigation of another equally ranked officer. There is a definite conflict of interest there. So I believe that the chiefs are supporting this because it's in their best interest to do so.

Ms. Soo Wong: No, this is Chiefs of Ontario, related to indigenous—

Ms. Kelly Donovan: Oh, indigenous chiefs. And specific to the inspector general section?

Ms. Soo Wong: No, they support Bill 175. They have directed this committee to go forward.

Ms. Kelly Donovan: Right. I think there are a lot of positive parts about this bill. If I had more than five minutes, that would be one section where I would say, absolutely. And the changes to the Coroners Act are fantastic—there are a lot of things here that we need to progress with—and the changes to the SIU. I just don't understand why we have three bodies that are looking at people in policing's conduct critically, but not working together. We're all looking at different bodies, and we take complaints from different people. Why not have one agency of excellence?

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Soo Wong: Okay. Thank you very much for being here.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks to you, Ms. Donovan, for your deputation.

I would now invite our next presenter to please come forward: Dahabo Ahmed-Omer, Justice for Abdirahman Coalition. Are they present? Mr. Omer? We are ahead of schedule.

I presume the folks from the Canadian Civil Liberties Association also are not here? That's Michael Bryant, whom we would recognize, and Rob De Luca. No?

Is Paul Dubé, the Ombudsman of Ontario, here?

All right, we're looking at a 15-minute recess.

The committee recessed from 1613 to 1629.

JUSTICE FOR ABDIRAHMAN COALITION

The Chair (Mr. Shafiq Qaadri): Welcome back. We will now invite our next presenter to please come forward: Ms. Dahabo Ahmed-Omer for the Justice for Abdirahman Coalition. Welcome. Fadhiiso.

Ms. Dahabo Ahmed-Omer: "Fadhiiso" is what you said?

The Chair (Mr. Shafiq Qaadri): Yes.

Ms. Dahabo Ahmed-Omer: Oh, wow.

The Chair (Mr. Shafiq Qaadri): Please do introduce yourselves. Welcome. You have five minutes to make your opening address. There will be a rotation of the questions. Please begin.

Ms. Dahabo Ahmed-Omer: Thank you, Mr. Chair. My name is Dahabo Ahmed-Omer. I am the spokesperson for the Justice for Abdirahman Coalition. Thank

you for accepting our request to appear before you today concerning Bill 175.

It is an honour to be here representing many voices, but one key voice in particular—one who cannot be here today because his life was taken much too early, one whose life could have been saved by the accountability and oversight that this bill aims to implement.

Abdirahman Abdi was a 37-year-old Somali Canadian with mental health issues. He lived in an up-and-coming neighbourhood in Ottawa with his parents and siblings. Abdirahman was killed on July 24, 2016, by an Ottawa Police Service officer. Mr. Abdi had no criminal history, and there was no indication that he posed a threat to the lives or safety of the officers at whose hands he died.

Our coalition is based in Ottawa and supported by local and national advocacy groups. We are a multi-generational team of professionals. Our coalition asserts that fairness, transparency and accountability in our law enforcement institutions are critical to ensuring all of our safety and security.

Bill 175 is being introduced at a critical time for policing in Ontario. On balance, we believe that measures proposed in this bill can serve to strengthen accountability and begin to rebuild public trust for law enforcement in this province. The coalition strongly supports the bill's proposed principles to govern police oversight in Ontario. The provisions clearly identify the importance of holding police officers and other policing officials accountable.

The coalition also applauds the legislation's significant improvements to transparency and co-operation within SIU investigations. Today, SIU investigations are shrouded in secrecy, and it has weakened community trust, because its impartiality and its independence from the police oversight process are lacking.

This is particularly pronounced in cases that have been prolonged investigations without public consultation or public disclosure of their status. For example, in the case of Abdirahman Abdi, the family and the community had to wait seven long months, adding to a mourning family's anguish.

As such, we are pleased to see that the Safer Ontario Act will require SIU investigations to be finalized within 120 days and to provide a public status update on the status of the investigation if the time limit is exceeded.

We also welcome the proposed measure to allow SIU directors to comment on ongoing investigations, in the interests of preserving public confidence.

Moreover, the introduction of penalties for non-compliance in co-operation with SIU investigators is critical. The duty to co-operate is unenforceable and therefore meaningless if the non-compliant officers are not subject to sanction for the offence. The associated penalty acts as a specific and general deterrence of delinquent behaviour. Furthermore, it represents a level of accountability that does not currently exist.

Therefore, we welcome the provisions empowering the SIU's independence to fully realize its role by ensuring co-operation through tangible consequences such as fines and even, where appropriate, imprisonment.

We also welcome the newly formed Ontario Policing Discipline Tribunal and the articulation of the standard of proof in the proposed bill as a balance of probabilities. The previous police act did not have clear language in articulating the standard of proof in civil proceedings.

This change solidifies the reality that the profession of policing matches the same standard of other noble professions, such as firefighters and medical doctors. These measures, among others, are of deep importance to us, and in our written submission, we will be sharing with you a list of provisions that we want to see maintained at all costs.

While we support the majority of this bill's proposed changes, it is not all roses, as they say. Of particular concern for our coalition is the lack of discretion afforded to chiefs of police to suspend, without pay, officers accused or convicted of criminal conduct. The coalition acknowledges the fact that the public service profession of policing is complex and difficult, and it is a dangerous one. Police officers have a sworn duty to serve and to protect us, but what happens when the opposite happens? What happens when those who have been sworn to protect and serve us become the threat? Our legislative framework around policing should be sophisticated and agile enough to delegate such authority to chiefs of police.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Dahabo Ahmed-Omer: This bill is nearly 30 years in the making. I'll conclude with this: The Justice for Abdirahman Coalition is self-funded. I'm here today on my own time and my own dime. I stand before you representing concerned citizens across the province and our great nation. You are the decision-makers, and now, this is your time. We would ask for you to rise to the occasion rather than to succumb to the arm-twisting of well-funded lobby groups. Please take a closer look at this bill and consider the words that I've shared with you in the last moments.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Omer. To the NDP side: Ms. French.

Ms. Jennifer K. French: I saw you flip past a couple of pages there at the end.

Ms. Dahabo Ahmed-Omer: I did.

Ms. Jennifer K. French: I would be more than happy to invite you to share anything that you would like to get on the record.

Ms. Dahabo Ahmed-Omer: Thank you. Of particular concern for our coalition is the lack of discretion afforded to chiefs of police to suspend officers accused or convicted of criminal conduct without pay. Now, the coalition acknowledges the fact that the police service and the profession of policing is a complex, difficult and dangerous one. What we are most disappointed about is the provision around suspension without pay.

Other points in this bill will go too far, such as the opening of police services to privatization in our communities. This is an area that should be more closely

examined. This point is further elaborated in our written submission.

The totality of this legislation is sound. It's proactive, it's sustainable and it's an effective framework for making sure that our police system is focused and that community safety and well-being is taken into priority.

Ms. Jennifer K. French: Okay. I had heard it at community forums with Justice Tulloch, and we've heard it today—and I would like to know how you feel when it comes to the privatization of police services. You mentioned that you have some concerns. I don't have the written submission in front of me. Maybe I do; I don't know. But I'm looking forward to that. Or maybe—no. Anyway, we'll find it.

I'd like to have the specifics, but while I've got you now, one of the things we've heard from the broader community is the need for what they feel is accountability. The oversight and accountability, that's where I anticipate your concerns are with the privatization, that if you have core police services looked after by a private company that's profit-driven and doesn't fall under that oversight umbrella—that's my instinct. I'd like to know your take on that.

Ms. Dahabo Ahmed-Omer: We're very aligned with what you're saying. I think that it's important to note that if it is privatized, the police service and the policing system is no longer driven by the safety and security of our community but more driven by profit. We worry about that. We worry about the fact that the police and community relationship right now is very strained.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Dahabo Ahmed-Omer: It is strained because of a number of instances in the last year, including Abdirahman Abdi's case. So it's important to note that we don't want to deter from that. What we want to do is fix the relationship between the community and the police.

Ms. Jennifer K. French: Thank you. And it turns out I did have your submission. I apologize to the Clerk. I will open my eyes next time and look. Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your written submission. I did have a quick scan of your written submission.

I just want to elaborate and get your opinion, because you expressed your concern to the committee about privatization. I wanted to ask you, coming from the city of Ottawa—we just heard earlier from AMO, the Association of Municipalities of Ontario, claiming that one of the largest budgets for most municipalities is policing.

Would you not agree, as a resident of the city of Ottawa, that not all policing needs to be a police officer with a gun; for example, when you're hiring for online issues? There is a lot of trolling and there's a lot of organized crime on the Internet. Would you not be arguing for an officer who has the expertise? It may not be a police officer with a gun; you hire an expert when it comes to electronic safety stuff.

The other piece here is that I know that the city of Ottawa is growing. Your mayor has been working with us in terms of infrastructure. As a resident, would you hire an officer or a special constable to better start dealing with some of that construction? Because we see construction. I'm from the city of Toronto.

I just want to hear your comments about that piece of privatization, because you haven't verbalized to us about that concern, so I wanted to push out about it specifically.

Ms. Dahabo Ahmed-Omer: Sure. I think it's important to note that police officers have a very difficult job; right? There are ways that we can deal with the lack of training that they have. I think that there are ways to grow their work description. There are ways to ensure that they are equipped with the right tools to deal with different types of situations. If police officers need to have more training when it comes to mental health or when it comes to dealing with different types of situations, I think that it would help them. We would ensure that they had what they needed to do their job.

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I stand firmly against privatization because I think it divides the community from the police. Any time that you take a service and you take it out of the community—for now, I think the only reason why some of the relationship is not completely destroyed is because we do see the police officers in our community. I think that it's important to keep them there but also to make sure that they have the tools that they need to do their job properly.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Mr. McDonell.

Mr. Jim McDonell: Thank you for coming before us today.

I know I don't live in Ottawa, but I'm close enough to catch the radio stations, certainly, to hear about some of these very sad things that happen.

Now, we talk about the 120 days for completion. We also know that most of that won't happen. Do you think it's suitable to have to wait that long for some public information to come back from the commission? Because I know that part of the issue in this case here was that it's basically a secret for so long—four months—and the public sometimes needs to know some information. I think in this case here, this was one of those cases where four months is really too long to wait for any information back.

Ms. Dahabo Ahmed-Omer: I think that there's a way to find a balance between the special investigations unit doing their job properly and accurately and making sure that they have what they need to come up with findings that are appropriate and that would respond to the public. I know that when it is too long, obviously it adds on to the family's anguish and it adds on to the community's worry and doubts when it comes to policing and how they are doing their investigations. What we would like to see is a balance between the two.

When Justice Tulloch did his review on oversight, with speaking to as many people as he did, I think he was

able to find a balance between the community wanting to hear back from their law enforcement institutions as well as the SIU body doing their job properly.

I think waiting for months on end without hearing a word back is difficult for the whole community. It only adds on to the family's anguish. It adds on to their troubles. It adds on to figuring out, what is going on, what is happening within our law enforcement institutions that they're not able to give us any piece of information?

I think that with Justice Tulloch's recommendation, it's a balanced solution. I think it's great if SIU can come back and say, "Here's what we've done so far. Here's where we're at. Here's where we're going." It doesn't create doubt. You know what's going on. Nothing is being done behind closed doors, and the public can trust that their law enforcement institutions are doing their job.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Jim McDonell: I know that policing, in most cases, comes down to a matter of trust. You're fairly familiar, I would think, through your coalition on that amount of trust. Do you have any comment on trust and law enforcement?

Ms. Dahabo Ahmed-Omer: I think that there have been a lot of different instances where the trust has been broken. If we look at the race-based data report that has been done on traffic stops, it shows you that racialized communities are overrepresented. I think that it's important to note that these racialized communities are suffering at the hands of the police. They are. It's not hidden. Justice Tulloch, when he did his report—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McDonell, and thanks to you, Ms. Omer. Shukran for your deputation of the Justice for Abdirahman Coalition.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Now I'd ask our next presenters to please come forward. The Canadian Civil Liberties Association: Mr. Rob De Luca.

Welcome, Mr. De Luca. You have five minutes to make your opening address. Please begin now.

Mr. Rob De Luca: Thank you for the opportunity to appear before you today. The Canadian Civil Liberties Association is a national organization dedicated to the protection and furtherance of civil liberties in Canada. As a principles-based and strongly non-partisan association, we will focus our submission on improving the bill's provisions from a civil libertarian perspective.

In my time here today, I would specifically like to focus on the bill's provisions codifying police independence. We recommend that these provisions be revised and narrowed so as to ensure that police oversight institutions are able to effectively carry out their oversight obligations.

The act would protect a sphere of operational independence at several points. Section 38(5) of the act prohibits boards from making "policies with respect to specific investigations, the conduct of specific operations, the deployment of members of the police service, the management or discipline of specific police officers or other prescribed matters." Section 40(4) of the act then prohibits a police service board from directing the "chief of police with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the routine administration of the police service or other prescribed matters." At sections 60 and 62 of the act, similar language prohibits the minister from making certain policies and from directing the commissioner of the OPP.

On its face, this is broad language. It prohibits municipal boards from making general policies that might be viewed as directing the deployment of police officers. It insulates both the conduct of specific operations and routine administration from direction. While these concepts can be narrowed and better defined via regulation, the statute also expressly allows for additional prohibitions on direction to be prescribed. These protections for police independence fail to reflect democratic responsibilities and obligations with regard to police oversight and accountability.

First, we share Justice Linden's observation that the arguments in favour of operational independence—minimizing the risk of political interference and obligating chiefs of police to take on the burdens of decision-making in spheres where they are best situated—should not insulate public officials, including chiefs of police, from being fully accountable to the institutions of a democratic society.

Second, we are wary of the unjustified assumption that the dangers of inappropriate political interference are more weighty than the dangers of inappropriate police behaviour, including the dangers that police behaviour might itself be shaped by political motivations or by other prejudices. These unjustified assumptions are particularly pernicious, as they encourage democratic institutions to shirk their political responsibilities, particularly in those instances of public controversy where political leadership is most in demand.

As Justice Morden concluded in his review of the Toronto Police Services Board's role in overseeing matters related to the G20 summit, in order to play an effective and meaningful oversight role, police services boards can and must provide detailed guidance to police forces on issues affecting the community. On this point, civilian oversight should not be hindered by the traditional divide between policy and operational decisions.

It is particularly important for boards to play an active, informed role on issues that have a significant impact on residents' charter- and code-protected rights. For example, in the past, the CCLA has urged police services boards in Ontario to address concerns about carding and racial profiling. The CCLA has maintained that police services boards have a positive obligation to address systemic rights issues in order to fulfill their statutory mandate. While this positive obligation would now be expressly recognized at several points in the proposed

act, we submit that the statute's overbroad conception of police operational independence would frustrate this obligation.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Rob De Luca: As such, we recommend that the bill's several provisions codifying police independence be revised and narrowed.

We have a number of additional recommendations for amendment that we will be passing along via written submissions that have not been submitted as of yet, as well as more detailed recommendations for the above provisions and sections, but I now welcome any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. De Luca. We'll begin with the government side. Ms. Wong.

Ms. Soo Wong: Do you want to finish for the next two minutes so that we can hear what you have missed because the time is limited? Can you share with us briefly what you wanted to say—but you didn't have the time in the five minutes?

Mr. Rob De Luca: I was able to finish my expected submission.

Ms. Soo Wong: Okay. With regard to the proposed legislation, if passed, I want to hear—because you represent the Canadian Civil Liberties Association—how these changes would affect your clients and your work within your association.

Mr. Rob De Luca: How would the act, as a whole, affect our clients?

Ms. Soo Wong: Yes.

Mr. Rob De Luca: I think that's a difficult question to comment on, for a number of reasons. One is that the several schedules, if passed, would have a number of consequences. It's such a large omnibus piece of legislation that it's difficult to parcel out what exactly will affect what. That is part of the reason I'm reticent to give a sweeping indication of how it will affect people who contact us.

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Another issue, I think, is that at a number of points in the legislation it's expressed that a number of regulations will need to be prescribed before we know the consequences of the act. For that reason, as well, I think it's difficult to comment on how exactly it will affect individuals who contact us.

I will say that if the act is fully implemented and that we have a complaints director overseeing independent investigations and a tribunal providing independent hearings, that is the kind of independence that a number of people who contacted us with concerns about policing are looking for. But, again, I think the actual implementation of the act is still somewhat up in the air, in my opinion.

Ms. Soo Wong: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. McDonell.

Mr. Jim McDonell: Thank you for coming out today before the committee. I know you talked about police accountability and political interference. Can you elaborate on that?

Mr. Rob De Luca: The reason I raised that concern is I think the traditional justification for codifying police independence and having a robust sphere of independence where politicians and civilian oversight bodies shouldn't interfere is in furtherance of the rule of law and the belief that, as an independent institution, police officers need the freedom to be able to—for instance, most powerfully, the independence to bring investigations when they see fit and when they have reasonable grounds to believe a criminal offence might be taking place. That itself might engage political officials.

I think that's the traditional justification for the core of police independence, but part of the point I was trying to make is that I don't think political motivations are exclusive to political bodies and that among police services and police services boards you'll also have political motivations. There is a danger in overreliance on political independence as some sort of check on political bodies. I think the danger is, and this has been noted by numerous commissions and inquiries, that if you give too much towards police independence, the police can become a sort of law unto themselves. I think that's the danger—and that ultimately in a democratic society, it is the democratic institutions that should be able to hold the police accountable.

Mr. Jim McDonell: You also talk about—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Jim McDonell: —a police service board having more ability to provide guidance, so kind of running contrary to that. So you're looking at some examples of that. Were you looking at some guidance as far as what areas?

Mr. Rob De Luca: One of the difficulties with the act is that I think it does provide that guidance at various points. The new statutory provision mandating strategic plans and the community safety and well-being plans is the kind of guidance I have in mind, in part. One of the issues—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McDonell. To the NDP side: Ms. French.

Ms. Jennifer K. French: I kind of want to hear the end of that thought, because otherwise it's just rude, but then I have a question.

Mr. Rob De Luca: Sure. I think there are numerous provisions in the act that speak to directions that we've sought from a police services board, including in relation to issues such as racial profiling. Those are the sorts of directions that I think boards can sometimes be more forthright in pursuing. The danger of police independence is that, if it can be categorized as a specific operational decision, then that could be used to resist a direction from the board.

Another good example was—

Ms. Jennifer K. French: Also, that was his question, so I have one too. Finish that, but then I really want to—

Mr. Rob De Luca: I'll just repeat again that I think Justice Morgan details in his G20 report how this was very germane to the G20 issue.

Ms. Jennifer K. French: Thank you. Like you said, the actual implementation is up in the air, in your opinion, so I would like to hear some of your ideas on how best to implement. You also said that a number of regulations will need to be prescribed. I would love some examples, because so much is left to regulation and we never get to dig into that. That's made in backrooms, and then we wait and see. There are some pieces that perhaps should be debated as statutes. Do you have thoughts on combining those?

Mr. Rob De Luca: In general, I believe that any provisions that might affect the Charter of Rights and Freedoms should be moved to the prominence of a statutory definition as opposed to regulation. One of the key areas where I think regulation will play an important role is one that I mentioned earlier—which is that a number of these definitions regarding police independence are set by regulation.

I think another very important one is in the case of First Nations boards. These boards will be constituted upon request to the minister, and then the boards will then be completely composed via regulation—the area of the board and how the board itself is constituted. That may raise, I think, issues of First Nations policing and whether or not that should be something that should be codified.

I think that there are a number of other places in the act, but those are two that spring to mind.

Ms. Jennifer K. French: I will look forward to that written submission that outlines your recommendations. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. De Luca, for your deputation on behalf of the CCLA.

OFFICE OF THE OMBUDSMAN OF ONTARIO

The Chair (Mr. Shafiq Qaadri): Our next presenter is Mr. Paul Dubé of the Office of the Ombudsman of Ontario. I know that you colleagues know the drill very well. Please begin your five-minute address now.

Mr. Paul Dubé: Thank you, Mr. Chair and members of the committee. Bonjour et bon après-midi. Thank you for the opportunity today to speak to you about Bill 175. Significant reforms in policing are long overdue, and this bill contains many positive elements that I support.

Public confidence in policing has deteriorated substantially in the past three decades, so my team and I are pleased to finally see this bill, which constitutes a significant step forward in enhancing accountability and reforming policing in Ontario. There are some gaps in the legislation proposed, and I will highlight the most important from our perspective.

However, I am going to urge you to make the necessary amendments and expedite its passage into law. The people of Ontario have been waiting decades for an effective and credible system of police oversight, only to see recommendations from coroner's juries, commissions and Ombudsmen result in only incremental change. To adequately address the tensions between police and the community and to rehabilitate a relationship that must be built on trust and confidence, this bill should be just one step in a comprehensive process of reform that must address police culture, oversight, accountability, training and recruitment.

As you know, my office has proposed many reforms to improve public trust in police, including better training and standards and increased accountability and transparency. The need to reform and modernize policing was further underscored by Justice Tulloch's review. He and I have made similar and consistent recommendations, many of which, thankfully, are incorporated in the bill before you today.

To cite just a few:

—Extending my office's jurisdiction to the inspector general and to the Ontario Policing Complaints Agency and the Ontario Policing Discipline Tribunal, as well as the Ontario Special Investigations Unit, is a responsive and appropriate measure.

—Ensuring that police oversight bodies are supported with a robust statutory foundation with clear mandates is an historical development.

—Requiring SIU director's reports to be disclosed will go a long way to improving public confidence not just in the SIU but in the police themselves.

I support and commend these long-overdue reforms, which represent unprecedented advances in policing oversight. However, I must draw your attention to several gaps in the bill that my office has identified and dealt with in my written submission.

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The first two deal with civilian representation within the agencies that police the police. Public confidence requires that these agencies not be tainted by a perception of pro-police bias.

There are insufficient safeguards in the bill to ensure that complaints about the police will be investigated by civilians and not the police, so the composition of these agencies needs to be addressed. In some cases, the bill recognizes this. Unfortunately, it is not consistent. Although it bars SIU investigators who have a policing background from investigating their former colleagues, it does not do so for all the other bodies. My submission proposes amendments to the bill that would ensure greater civilian representation on all of our police oversight bodies, and prohibit them from having ex-officers deal with cases involving their former police forces.

Most significantly, I am concerned with the wording of provisions intended to make it mandatory for police services to comply and cooperate with the OSIU. That intent is undermined entirely by the qualifier, "unless it is impracticable to do so." We have seen historically the reluctance of some police chiefs and services to comply with and respect the SIU's mandate. This wording will enable and reinforce the very problem that the section was intended to remedy. Imagine the blow to transparency and accountability if open meeting legislation said meetings should be open to the public, "unless it is impracticable to do so."

We require information from the institutions that we investigate. The confidentiality provisions in Bill 175 could be interpreted as a justification for not complying with a request for information from my office. This bill expressly exempts certain offices from this non-disclosure principle, such as the Human Rights Commission and the Information and Privacy Commissioner, and my office should be exempt as well.

Finally, if policing reform is to address the crisis in confidence we are now seeing in policing, it must address the way that police interact with vulnerable people, such as those who are in crisis due to mental illness or drugs. A legislated commitment to reforming the use-of-force model and making de-escalation training mandatory is missing from Bill 175.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Paul Dubé: While the details can come out later by way of regulation, I'm concerned about the lack of concrete action on standards for police training since the minister accepted my recommendations on this in 2016. The objective of this legislation is to make Ontario safer, and a legislative commitment to a new use-of-force model, requiring officers to use de-escalation in dealing with people in crisis, is a key missing piece to this legislation. Mandatory training on de-escalation would save lives, improve public confidence and, hopefully, result in fewer cases before the SIU and the other agencies in this bill.

It's time for concrete and substantial change in the way that police are trained, carry out their duties and are held accountable in Ontario.

Le Président (M. Shafiq Qaadri): Merci, monsieur Dubé. Je passe la parole à Mme Scott.

Ms. Laurie Scott: Thank you very much. That was a lot of heavy content. Is there anything that you wanted to go over again? Five minutes is not a lot of time to specify. There are some things I know you went over quickly, so please.

Mr. Paul Dubé: Just that there's no prohibition against current or former police officers being employed by the tribunal, for one; there's no prohibition against the inspector general being a current or former police officer, or a deputy investigator; and the SIU has no limits on the number of police officers. The composition of these boards is something that I would urge the committee to address to make sure that there is no perceived apprehension of bias on the part of the public and it doesn't look like it's just the police policing the police again.

Ms. Laurie Scott: Just to follow up on that, if I may: What have you seen and what is being proposed? You're still not totally comfortable that there aren't too many police background people, I guess, on the boards or the oversights, right? You're still saying that it could be—

Mr. Paul Dubé: My office, before I was even there, reported on this in the past. It was problematic that the police culture—former police officers have a tendency, or are susceptible to, bringing that culture with them. That has to be addressed. So having a proper balance and making sure that the majority of these bodies are staffed with civilians and not police—especially if they are former police officers, that they be prohibited from investigating complaints or issues with respect to their former police forces, because potentially, it could be their colleagues.

Ms. Laurie Scott: Of course. And you still feel that that's a possibility, the way the legislation is written.

Mr. Paul Dubé: Yes. The way the legislation is drafted right now, there is no protection or prohibition against that.

Ms. Laurie Scott: What proportion of police backgrounds and what proportion of civilian—I don't know if I'm wording that right—would you like to see? Is there a percentage, or is there anything you could refer to?

Mr. Paul Dubé: I'll leave that up to the committee. I don't have a specific percentage, but enough to instill public confidence, enough so that when the public looks at this, this doesn't look like the police policing the police.

Ms. Laurie Scott: That's a fair enough comment.

How many seconds do I have left?

The Chair (Mr. Shafiq Qaadri): Forty-five.

Ms. Laurie Scott: Forty-five; all right. Can I just speak to the fact that there have been a lot of recommendations? There are going to be cost implications that there are no actual resources given for these oversight bodies. Do you have any comment?

Mr. Paul Dubé: I can only speak to my office. I think that we would be well-positioned to handle the extra oversight without any extra costs. It doesn't look like extra resources would be necessary.

Ms. Laurie Scott: In addition to what's been said in the bill or—

Mr. Paul Dubé: I'm not sure I understand your question.

Ms. Laurie Scott: In addition to the oversights that are in the bill, I just don't understand how you—

Mr. Paul Dubé: So are you asking about my office's oversight or the other bodies?

Ms. Laurie Scott: Yes, the other bodies.

Mr. Paul Dubé: I can't give a comment on—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To Ms. French of the NDP.

Ms. Jennifer K. French: Okay, my turn. Thank you for coming.

I was looking back through some notes. We had had a presentation earlier this morning speaking to the ability for more and varied civilian involvement, and ensuring that there weren't screening pieces that would deter people from getting involved. But I can't find my notes so that's not super helpful.

But in terms of the civilian involvement in—what was it, anybody remember? It was non offences. Anyway, the gentlemen who gave the presentation said, "I would be deterred if they"—never mind. I have so many thoughts and they're not lining up here because—

Mr. Paul Dubé: We have more details in the written submission so hopefully that will be helpful.

Ms. Jennifer K. French: Thanks. Okay, so I am going to do my best to focus here and come up with something useful. It's something that you had said about the bodies being not biased but perceived as biased. I guess I would like to know—because you do so much interfacing with the community and have a real appreciation for the perception of systems and how to foster that kind of trust and make improvements. Is there anything else that you would recommend that would help with that—things that may not be the nitty-gritty but broad pieces that could strengthen this legislation so that our communities do have a better understanding of the process in general, so that they can perceive it and understand it?

Mr. Paul Dubé: I just think that there are several steps in this proposed legislation that address the need to improve trust and confidence. What we've seen over the past decades is we've devolved from a model where, as Sir Robert Peel said, "The police are us and we are the police." It's kind of devolved into—this is my observation, anyway—a situation where it's more "us" than "them," where police culture is tending to insulate the police from the public.

They want protections in the way they do their very difficult work, and that's understandable, but I think we have to redress the balance and really ensure that the public has more trust and confidence. That's done by enhancing accountability.

Ms. Jennifer K. French: When it comes to oversight, if we were to privatize and remove more police services and put them outside of that oversight, how do you feel about that?

Mr. Paul Dubé: As a taxpayer as well as the Ombudsman, I can see the logic to saving costs by having certain people do certain things; you don't necessarily need a fully trained officer. I think it comes down to what the role is, the mandate and the authority—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French. I pass it now to the government side. Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your written submission.

I'm going to ask specifically about the expanded oversight in the role of the Ombudsman as related to the bill. Also, we heard throughout the day about the issue of public confidence. In terms of expanded oversight in your role as the Ombudsman, how will these three police oversight boards improve—we really need to improve—public confidence? Can you put that in context?

Mr. Paul Dubé: Sure. I think that the objective is to ensure that they give people a place to go. By us having oversight over those three bodies, that ensures that there will be consistency, right? We don't redo investigations. We don't replace tribunals or investigative bodies. But what we do do is review their work when they are complained about, and make sure that certain standards of procedural fairness are maintained, and we recommend best practices. I think that that can only help enhance the oversight function and keep it consistent.

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Ms. Soo Wong: Thank you very much for what you do.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks to you, Mr. Dubé, of the Ombudsman's office of Ontario, on behalf of the committee.

SOUTH ASIAN LEGAL CLINIC OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Shalini Konanur of the South Asian Legal Clinic of Ontario—replaced by Sukhpreet Sangha. Welcome. Please be seated. You've seen the drill. You have five minutes. Please begin now.

Ms. Sukhpreet Sangha: Thank you. As a community organization that has been advocating for a strong police oversight system in Ontario, SALCO commends the government for introducing Bill 175. SALCO has a long history of working with racialized communities who have tried to engage in the police complaint process. We are pleased to see the government take this important step towards strengthening police accountability and restoring public confidence in oversight bodies.

However, the bill in its present form has raised some significant concerns for us, particularly regarding matters of violence against women and the potential to expand the SIU's mandate to "related persons." In that regard, I'll raise three specific concerns.

The first is regarding sexual assault allegations against officials not being included as a stand-alone ground for notification or investigation. Despite Justice Tulloch's clear recommendation 5.7(d), "The SIU must be notified of all incidents involving allegations of sexual assault against police officers," Bill 175 does not contain a stand-alone provision regarding this type of notification.

The bill needs to explicitly name sexual assault as a particular category of incident requiring notification, apart from embedding it as a part of the "serious injury" definition. As a province, we are moving forward in recognizing the distinct nature of sexual assault as a crime and the need to encourage its reporting. It is one of the most under-reported crimes, as I'm sure you are all aware, and the government needs to take active measures to correct that fact.

Already-marginalized groups, such as our clients, are especially vulnerable to sexual violence. Many communities, including racialized, indigenous, trans, differently abled, and without-status women, also have fraught relationships with the police and therefore especially need to see that sexual violence allegations against officers are taken seriously and are subject to oversight. Carving out sexual assault as requiring particular notification and investigation is a key step in addressing widespread sexual violence. Naming sexual assault explicitly in Bill 175 in this way would also be in line with the provincial government's stated commitment to preventing violence against women.

As Justice Tulloch writes in his report, where there is uncertainty, the legislation should tend towards being over-inclusive and thereby leave it to the SIU to determine, ultimately, whether or not an incident falls within its mandate. In order for that framework to function properly, the SIU must be notified of all incidents that potentially fall within its mandate.

Our second concern is regarding the Missing Persons Act and its lack of sufficient direction for officers to consider whether a person is fleeing violence before seeking an order for production or a warrant. The Missing Persons Act does contain essential provisions mandating consideration of whether or not an alleged missing person may not wish to be located, which we appreciate and recognize for their acknowledgment of the misuse of missing persons reports by abusers seeking to locate persons who have left or are attempting to leave situations of violence and/or abuse. However, the responsibility for applying this framework rests only with justices in section 4(4), regarding orders for the production of records, and section 6(3), regarding applications for warrants authorizing entry. There is similar language to those provisions in section 5(3), regarding urgent demands for records, providing that officers must consider any information suggesting that the missing person may not wish to be located, but it appears only in that section.

Instead of this bifurcation of responsibility, officers should be required to apply these considerations in all three situations themselves prior to applying to justices for production orders or warrants. Sections 4 and 6 should include this provision for officers as well as justices to pre-empt the use of judicial resources in determining whether or not the alleged missing person is actually someone who is trying to leave a violent or abusive situation, and incorporate this necessary framework at an earlier stage of the process, thereby.

Unfortunately, our work at SALCO reveals that abusive partners and families sometimes turn to the police and claim that a person is missing in order to try and find them and bring them back into an abusive household. People even go so far as to call the police and claim that the person is both missing and unsafe or at risk due to alleged mental health concerns, spurring officers to contact shelters for wellness checks that end up signifying the abuser's continued reach and control. Officers need to be trained in spotting such abusive behaviour and misuse of missing persons reports and related measures.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Sukhpreet Sangha: An important step in preventing this type of misapplication of missing persons provisions is legislating this framework at both the officer level and the judicial level, throughout the act.

My final point is about expanding the mandate of the SIU to include non-officers.

As a comprehensive concern, we are troubled by the act's broadening of the SIU mandate to allow for the investigation of non-officers. Provisions in the act, such as section 18 of schedule 2, permit investigations to be extended to include "related persons." Put simply, the investigation of civilians by the SIU is an overreach of its mandate as a police oversight agency—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sangha. We'll begin our first line of questioning with the NDP. Ms. French.

Ms. Jennifer K. French: Keep going.

Ms. Sukhpreet Sangha: These provisions will have a chilling effect on the participation of civilian witnesses in SIU investigations and thereby severely hinder its capacity. The extension of the SIU mandate to allow for investigations of civilians was not recommended in the Tulloch report, and it ought not to be included in this bill.

Thank you.

Ms. Jennifer K. French: Thank you.

As you know, today is the first Human Trafficking Awareness Day. We've had the opportunity to talk about it in the Legislature and now we can talk about it here. I was sort of triggering with what you were saying, with human trafficking and the horrible network that that is, to what you were saying about the Missing Persons Act. Can you maybe take a bit more time and talk about what that should look like? With that framework that we have outlined here and the concerns that you have—how can we reconcile those two? In your opinion, what could that look like?

Ms. Sukhpreet Sangha: I think there's actually quite a simple solution, which we're trying to point towards in our submissions, which is that the language that exists in subsection 5(3) already about officers needing to look at any information that suggests that the missing person may not wish to be located or is leaving an abusive or violent situation—just that that language should be imported into sections 4 and 6 as well, so that there's a preliminary step where an officer is mandated to engage those concerns and considerations before proceeding to make an application for an order or a warrant before a justice.

Ms. Jennifer K. French: So as it applies in subsection 5(3), you're saying it should then apply in sections 4 and 6 as well?

Ms. Sukhpreet Sangha: Exactly—as a preliminary step before the application for the order and before a justice needs to engage in that consideration. An officer should do so first, because then it can pre-empt the abuses of the missing persons process that sometimes take place by abusers to locate people trying to leave the abusive situation.

Ms. Jennifer K. French: Okay. We also heard earlier today from another applicant that their recommendation would be the same thing that you said—that it be explicitly named and have a stand-alone section.

Your third point, expanding of the mandate of the SIU to include non-officers: Can you give me an example of a scenario of concern?

Ms. Sukhpreet Sangha: Sure. Our clients, of course, are South Asian people of various backgrounds—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Sukhpreet Sangha: —racialized persons, who sometimes have a reluctance to engage with police for various reasons, historical and current. Our position is that clients of ours would be reluctant to provide information to an investigation knowing that that could lead to themselves being investigated by the SIU. They need a protection further than what's provided for in this act to be willing participants in SIU investigations, which is necessary to the success of those investigations.

Ms. Jennifer K. French: And that's section 18. We did hear about it earlier, but I wanted the further clarification. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French. To the government side: Mr. Potts.

Mr. Arthur Potts: Thank you very much for taking the time and bringing your expertise into these issues.

I'm going to start with the second, but your third point as well, and then maybe work back to the first. When we're talking about civilians—in your description here, you're talking about civilians on the street, when I think the application to the SIU is the oversight of civilian people within the service of the police. So when you have police officers and then you have forensic experts who may not be police officers, but they're civilians working within the service, we want the SIU to have oversight over them. Does that clarify that section, or am I misreading it?

Ms. Sukhpreet Sangha: In our reading of the act and section 18, as Ms. French mentioned, that's not clear. That's why we're troubled by the framing of the act. The way section 18 reads now, it doesn't specify in the way that you're specifying that this is only meant to include civilians connected to the service in some way. It's overly broad. It reads as if it could include other civilians.

Mr. Arthur Potts: Maybe it has to be "civilian employees," or maybe within the definitions section, why they use "civilian." I think they're referring to civilians within the service—but okay, we can take a look and make sure that's clarified.

I'm absolutely confident that this act is supposed to be addressing serious offences, of which sexual assault is clearly a serious offence. While it may not be named specifically in the act, in the course of anyone's understanding of a serious offence, I think that it would be caught up, and it certainly may get caught up in regulations.

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Would you be comfortable knowing that it was going to be caught in regulations or that it would be caught up in a layperson's definition of a "serious offence" and that police officers engaging in serious offences would be investigated?

Ms. Sukhpreet Sangha: It would go some way toward satisfaction if it were included in the regulations, but our position is that it needs to be named explicitly in the act as a separate category, especially because the way the act is currently framed, it doesn't appear to catch officers who are off-duty with allegations of sexual assault. Our position on Justice Tulloch's recommendation being so broad is that it is in part to capture that conduct, which this act fails to capture unless it is in regard to an investigation that is already taking place where other officers are already captured under the conditions under section 16.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Sukhpreet Sangha: That's a grave lack, in our position. There are a lot of cases we have seen where off-duty police officers are accused of sexual assault and they are charged in the regular criminal court process, but we believe that the SIU or the future OSIU should also have jurisdiction over those issues. Therefore, there needs to be a broader inclusion of sexual assault as a stand-alone provision to fix that gap.

Mr. Arthur Potts: We love what you do in the community. You represent a lot of people in my community. Continue the good work.

Ms. Sukhpreet Sangha: Thank you.

The Chair (Mr. Shafiq Qaadri): To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much. You brought a lot of great points to the table. This is why we have committees and presentations: to bring forward and to say what was missed in the bill.

Do you have an example you could give? Because I think that's what we need—an example of a woman, especially, who is trying to escape and she might get caught in this situation where she's found and she didn't want to be found. Can you just give an example that you've seen? Because I know that you have been a fearless defender of these people.

Ms. Sukhpreet Sangha: The example that I touched on very briefly in our submission would be that of a woman who has left an abusive household and finds herself in a shelter, probably a violence-against-women specific shelter, to find support and services, perhaps such as our own, and then the household that she has left—perhaps her partner calls the police and says, "My partner is missing. I haven't heard from her in X number of days. I want her to be declared a missing person. Can you please help me find her?" We find that unfortunately members of police services often fall for that. It is a trap. There are cunning individuals who are calling in with these requests. It's fair that they're not always caught, but unfortunately it can lead to a situation where the police then end up supporting the abuser in tracking down the woman who has left the household. That can go so far as to calling various shelters throughout the area where the woman is known to have lived or worked and actually finding the woman.

At shelters, we've spoken with women, men and any-gendered people who work at VAW shelters who struggle with the difficulty of being confronted with a police officer knocking at the door of the shelter and looking for a person who they claim is missing, but they know has been abused and does not want that person to know where they are. It can lead to this very grey area, which I know is difficult for police to manage, and I have

sympathy for that. There needs to be more protection for women who have successfully left the house but now find themselves pursued by police at the hands of their abuser.

Ms. Laurie Scott: The possible solution that you have brought forward: Do you think that that will be to pre-empt the use of judicial resources?

Ms. Sukhpreet Sangha: Yes. We think that building that framework in very directly throughout the Missing Persons Act at both levels—for the officers, initially, to engage in those considerations, and secondarily, justices, if the officers don't make that determination. That will help because it builds the framework in to address this issue. It makes the issue explicit in the act.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Sukhpreet Sangha: It makes it explicit that there should be two levels of verification, even in the case of production orders and warrants, to confirm that that is not what is happening and the person is indeed missing. I think it would go a long way.

Ms. Laurie Scott: And you're okay with the time frame it would take—I don't know how long it would take to apply—for a double-check, basically?

Ms. Sukhpreet Sangha: Right. Production orders and judicial warrants are typically pursued very quickly. That's why there are telewarrant provisions. Officers are usually in great haste, so I don't think it would extend it to the point of being a concern.

Ms. Laurie Scott: Okay. Thank you very much. That was all.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Sangha, for your deputation on behalf of SALCO.

TORONTO COMMUNITY HOUSING CORP.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Hannah Kohn from the Toronto Community Housing Corp. Welcome. Please be seated. Your five minutes begin now.

Ms. Hannah Kohn: Good evening. I'm here on behalf of Toronto Community Housing. Thank you for your time today.

Toronto Community Housing respectfully requests that this committee consider amendments to the proposed Police Services Act in schedule 1 of Bill 175. The details of that amendment are outlined on page 6 of our written brief, which hopefully has been provided.

The purpose of these amendments is to allow special constables to create and maintain youth records when acting in the scope of their appointment, without breaching the privacy provisions outlined in the Youth Criminal Justice Act, the YCJA. We believe there is an unintentional gap in the legislation in terms of equipping special constables with the necessary protections to complete their duties. In light of the language of the YCJA, we believe that our proposed amendments are the only way to address this gap and provide special constables with equitable protection under the legislation.

I'd like to briefly review the current legislative regime as it relates to special constables, which explains what we're here about today. Under the existing and the proposed Police Services Act, a police services board may appoint a special constable and confer on him or her the powers of a police officer, as set out in their appointment. Special constables must keep records of their interactions with the public while acting within the scope of their appointment. The reasons for this are twofold: (1) Documenting their activities is necessary for compliance with reporting requirements mandated by the police service from which their powers are conferred; (2) it provides critical protection and accountability in the event a complaint is lodged.

In the course of their duties, special constables may and often do interact with young persons involved in criminal activities in a whole host of capacities, which triggers the YCJA, the federal piece of legislation which governs the youth criminal justice system. The YCJA states that records may be created and maintained only by those persons that fall within one of three categories: youth courts, police forces and governments. With respect to the police force exemption, the YCJA states that a record relating to any offence alleged to have been committed by a young person may be kept by any police force responsible for or participating in the investigation of an offence.

"Police force" is not defined in the YCJA or the Criminal Code, so we turn to the Police Services Act for guidance. In both the existing and proposed Police Services Act, special constables cannot be considered police officers or members of a police force. As a result, special constables cannot fall under that exemption and are not permitted to create or maintain youth records. As the legislation stands, special constables must either cease all interactions with youth or be in breach of the YCJA and risk the associated consequences, which are quite serious.

To create and maintain youth records under the YCJA, special constables must qualify as a police force. As a result, we're requesting consideration of the proposed amendment, which would allow special constables the designation of police force solely and for no other purpose than for the lawful creation of youth records arising out of the scope of their appointment.

The current regime has the effect of preventing a police service from properly conferring on special constables police powers with respect to youth. We respectfully submit that there is no indication that such a limitation was intended. As it stands, a police service may confer on special constables police powers with respect to youth, but not the corresponding power to create and maintain records of these interactions. This interpretation raises an absurdity argument and, we feel, cannot reflect the legislative intent.

In Bill 175, the Ontario Special Investigations Unit, the Ontario Policing Complaints Agency and the Ontario Civilian Police Commission all have a mandate that includes the investigation and discipline of special

constables, who will be held to the same high standards of accountability as police. There is a patent unfairness and absurdity in holding special constables to the same standards of accountability as police while refusing them the same powers to document their activities.

Finally, we believe that empowering special constables to fully execute their delegated duties allows them to play a critical supporting role in community safety, particularly in the vulnerable communities of Toronto Community Housing, while allowing police officers to focus on their core law enforcement responsibilities.

We thank you for your consideration. Those are our submissions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kohn. We'll begin with the government side. Mr. Potts?

Mr. Arthur Potts: Yes, thank you very much for your submission.

Wow. I guess we have to learn that. It's part of our job here. Let me just clarify that the special constables would have the overseeing by SIU and be governed by all of their privacy considerations in our Freedom of Information and Protection of Privacy Act and all that kind of stuff.

Ms. Hannah Kohn: That's correct. As part of Toronto Community Housing, they're bound by MFIPPA and all the other privacy requirements.

Mr. Arthur Potts: MFIPPA: Not the provincial law, but the municipal law.

Ms. Hannah Kohn: Yes, MFIPPA.

Mr. Arthur Potts: I'm trying to get to this notion of, we'd want them to have the same oversight as any police operation in the province of Ontario regardless of if it's a municipal level or—

Ms. Hannah Kohn: I mean, I have some confusion myself, if I'm being honest, about the move from the independent oversight that special constables have presently today to having the police bodies oversee their activities. So I'm not totally clear myself about what additional privacy requirements that may bring with that. I could certainly report back to you on that.

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Mr. Arthur Potts: You don't have to report to me; I'm more flagging this. Certainly our staff and legal team who are here are taking copious notes on it.

Ms. Hannah Kohn: Unfortunately, it's just me.

Mr. Arthur Potts: What we're really here for, for our purposes, is a technical fix in order that you're included in the exemption as a police force, in order to keep youth records. Obviously, we see special constables' interaction with the youth. It's important to have those records and to keep those records private—and not to be used for any other purpose than assisting in the good order and management of the buildings.

Ms. Hannah Kohn: Absolutely. We're very open and supportive to whatever training requirements are appropriate, and obviously the IT management systems that must be in place in order to segregate those documents and be compliant in every other respect.

Mr. Arthur Potts: And a special constable is a different animal than a private security firm, certainly.

Ms. Hannah Kohn: That's correct.

Mr. Arthur Potts: We had some conversations earlier about making sure the purpose of the act actually made it clear that it wasn't just the police and the people that they serve, but it's the police, police constables and private security firms, the whole gamut that's caught in the web there. If we did amend the purpose, you would probably want us to see special constables included in that as well.

Ms. Hannah Kohn: Right.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Hannah Kohn: We think the function that they're providing through the delegated authority under the Police Services Act—they are taking on that role, in a limited scope but a critical role in the communities. But, through whatever has led us here, they don't have the full support and the full protection that should correspond to the delegated duty.

Mr. Arthur Potts: Did you take over from Harold Ball?

Ms. Hannah Kohn: I'm not sure who that is.

Mr. Arthur Potts: There was a council at Toronto Community Housing—

Ms. Hannah Kohn: Oh. I've only been there two years, so possibly.

Mr. Arthur Potts: Okay, probably not. This goes back 20 years.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Potts. To the PC side: Ms. Scott.

Ms. Laurie Scott: Mr. Potts, you're dating yourself here.

Mr. Arthur Potts: True enough. Nobody else will.

Ms. Laurie Scott: We certainly won't go there.

Thank you very much for your presentation.

This is new to me so I am glad that you highlighted this. When you first found this out, were you able to find out who you should talk to about this?

Ms. Hannah Kohn: It's been a bit of a spiralling snowball, to be honest. It was a bit of circuitous route. It was just asked to me on the fly in a hallway, and the further and further I looked into it, the bigger of a problem it became.

I know our request does have the support of the Ontario Special Constable Association, and we had started some initial conversations with the Police Association of Ontario. I believe there is a meeting tomorrow. I'm not sure what their position is. I hope to advise you in writing when they've had a chance to consider it. But from the limited conversations I've had outside of our organization, to be quite frank, I think a lot of people just aren't aware of this as an issue.

Ms. Laurie Scott: Very good. That was my suggestion to you, that it makes sense what you're saying that there is a gaping hole that was unintended, and that, if you could talk with the police associations to get the support with the special constables—because what you're recommending all makes sense, unless I'm

missing something. And I could be, because this is, as I said, the first seven minutes of my seeing this.

Okay, you're going on the right path. And then whoever else you can get who supports—when you have that, that helps all of us at committee.

Ms. Hannah Kohn: Absolutely. Are there any other organizations you have in mind that you would like to be consulted by us?

Ms. Laurie Scott: For you, I think it's really just the Toronto Police Association and the PAO. Not the OPP. Those are the three main associations that have been here today. I think if you can, of course, bring this up—the Ontario Special Constable Association; I didn't even know there was an association. I'm sorry for that. There's just too much information all at once sometimes.

Ms. Hannah Kohn: I found out about two weeks ago.

Ms. Laurie Scott: There you are. So that makes sense.

Yes, I would recommend that you get together and send us a signal because we have to know, really, by March 1.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Laurie Scott: If I can ask the Clerk: What's the end of the deadline for written submissions?

Interjection.

Ms. Laurie Scott: Oh, sorry. Anyway, we can get back to you with that. Sorry. I thought it might just be off the top of his head. The amendments have to be in by March 5, so I imagine it's March 1. Yes, I'm quite sure it's March 1. Thanks very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To the NDP.

Ms. Jennifer K. French: I am madly, madly trying to work my way through this and fill in the blanks, so I'm going to make you do it for me, if you wouldn't mind putting it into layperson's terms. I understand that there are special constables. I'm reading here that they are not police officers—I know that—yet, are we asking that they be deemed for the purpose of this, or is there another workaround? If you can just put it really simply, the tangle, because when you were talking about the absurdity—I was already lost before we got to the absurdity part. But I am interested to know if the only fix, as you had said, is to deem them police officers versus another option.

Ms. Hannah Kohn: It's a very fair question. I spent a fair bit of time on this because I suspected that having them deemed police officer, even in a very limited function, is a very contentious ask. But unfortunately, given the language in the YCJA, the use of the term "police force"—until that comes up for revision and submissions can be made that additional language should be inputted into the YCJA to include special constables acting within the scope of their appointment, we're stuck with that phrase "police force." Anything short of special constables qualifying as "police force" will not bring special constables into compliance with the YCJA.

It's unfortunate. It's those two words—

Ms. Jennifer K. French: We can't touch the YCJA in this because it's not already in it, so this is why.

Ms. Hannah Kohn: Correct.

Ms. Jennifer K. French: So you're going to need the government to do something creative about it.

Ms. Hannah Kohn: Exactly. I was hoping for a less contentious ask, but I'm stuck with those two words. There's not any other way I can find, absent an opportunity to submit on revisions to the YCJA, which I don't think is coming up any time soon. We have to have them qualify for this limited scope as a police force so that they can not be in breach of the YCJA in creating these records.

Ms. Jennifer K. French: So the problem is that we can't have them in breach of the YCJA, which says that outside of these three designations or these three groups, thou shalt not keep records on youth, but they have the opportunity to interact with and interface on a regular basis.

Ms. Hannah Kohn: Right, and it's a critical part of their serving the communities. Particularly for our organization, they play a very critical role in community safety. Removing their ability to interact with youth would be devastating to their function.

Ms. Jennifer K. French: Probably also to the broader community, as well.

Ms. Hannah Kohn: Absolutely.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French, and thanks to you, Ms. Kohn, for your deputation on behalf of the Toronto Community Housing Corp.

TOWNSHIP OF MUSKOKA LAKES

The Chair (Mr. Shafiq Qaadri): We will now invite our next presenter to please come forward: Mr. Furniss, mayor of the township of Muskoka Lakes. Welcome. Mayor Furniss, you have five minutes to make your opening address. Please begin now.

Mr. Donald Furniss: I wonder if I might indulge the committee for one of the members to maybe give me 30 seconds' latitude to finish up my speech. I've tried to get it to five minutes, but—

Ms. Laurie Scott: That's absolutely fine. Take as much time—I can only give you three minutes in total, but—

Mr. Donald Furniss: Okay, thank you.

Chair Qaadri, thank you for giving me this opportunity. I'm speaking to you in my official capacity as mayor of the township of Muskoka Lakes. I've also been given proxy by Mayors Braid and Young of Georgian Bay and Lake of Bays to speak collectively regarding our joint concerns on the egregious injustice of policing cost allocation in the district of Muskoka.

The district of Muskoka is policed by the OPP under the Police Services Act via a non-contract arrangement. Your government, with input from AMO and a group of municipalities, spent over two years reviewing the costing of OPP policing services in Ontario. The ultimate objective was to provide fairness, uniformity and

transparency to the billing process. While the formula that was developed is far from perfect, it at least provides clarity on where costs are incurred and provides a uniform methodology to calculate the cost of policing in each of the 323 municipalities serviced by the OPP.

When the new formula came into effect on January 1, 2015, the district of Muskoka saw annual policing costs increase from $10 million to $17 million, the highest increase in the province. Prior to 2015, the district of Muskoka received one invoice from the OPP. No breakdown was provided for the six lower-tier governments. The only possible way to allocate and distribute this opaque cost was via the property tax levy. However, since 2015, the OPP, via provincial mandate, has provided a detailed, itemized bill for each lower-tier municipality in the district of Muskoka and for every municipality in the province.

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We know that the types of services supplied are similar for all six municipalities; however, the towns use over 70% of the policing services but are only paying 40% of the costs. The township's taxpayers are subsidizing the towns to the tune of $4 million per year. This happens for three reasons:

(1) The Police Services Act specifies that only a regional government can receive the policing invoice, not each of the lower tiers. This is egregiously unfair, as the district of Muskoka is the only regional municipality in the province using the OPP. If we were a county or like the districts to our north, south or east, each of the lower tiers would be receiving their own OPP invoices for the services that they use.

(2) The towns have 12 seats versus 10 for the townships. The towns have no incentive to change this inequity, where the township taxpayers subsidize their policing costs. The townships have introduced five separate resolutions over three years to allocate expenses on the OPP provincial formula, including one to phase in the costs to the towns over three years and one to share the cost differential 50-50. This was a $2-million-a-year concession by the townships to the towns. On every occasion, the towns unanimously voted down the motions because they have the majority.

(3) Over the past two years, we have reviewed this issue with former Minister Naqvi and current Minister Lalonde. In addition, we have discussed it with Municipal Affairs Ministers McMeekin and Mauro and with senior policy advisers in the ministers' and Premier's offices. While they acknowledge the situation is grossly unfair and they are sympathetic, they have done nothing to correct it, and it's not been rectified in Bill 175.

The government has made an exception for Oxford county, and we have proposed treating Muskoka like a county for OPP invoicing. We have also suggested that Bill 175 mandate the use of the OPP formula for billing lower tiers, unless there is unanimous approval for those lower tiers to use an alternate formula.

This pernicious situation needs to be corrected in Bill 175. The problem was created by the province, not by the local municipalities, and it needs to be fixed by the province.

The current Liberal government is running an election campaign under the banner of ensuring fairness and opportunity. This government's continued failure to address this egregious injustice, where three towns can legally extort $4 million per year from three less-populated townships, certainly does not meet anyone's threshold for ensuring fairness. In fact, the only opportunity here is for the stronger towns to continue to bully the weaker townships.

I implore you, Mr. Chair, to amend the act to restore the fairness that the OPP billing formula intended. Stop the legalized extortion from our taxpayers' pockets. There is a very simple fix: Just change the definition of a regional municipality to "a regional municipality, other than the county of Oxford and the district of Muskoka...."

The Chair (Mr. Shafiq Qaadri): Thank you, Mayor Furniss.

We'll start with the PC side. Ms. Scott. You're basically at 2.5 minutes.

Ms. Laurie Scott: Okay.

I feel I have heard this story many times, considering I represent the area just south of you, in Haliburton–Kawartha Lakes–Brock. There's no question that smaller municipalities were the big losers on this part of the change to the billing system. I leave it to the present government to see if there's a possibility of making any changes in respect to OPP billing in this bill.

I don't know if you want to expand on that further, but it has certainly been a call since it was changed and brought in. If you want to, go ahead and finish off the time.

Mr. Donald Furniss: I don't have a problem with the formula. They tried to address it. It's not a perfect formula, but it certainly has more clarity than before.

The issue that we have is, not using the formula and three towns being able to extract money, where we subsidize their costs on the townships, who don't use the volume of services that the towns are using.

That's the issue. I think it can be fixed either by putting a clause in the bill whereby you use the OPP formula for all of the 323 municipalities or—we've made a special exception in it for the county of Oxford; why, I don't know. I would like the same exception for the district of Muskoka. It seems only fair to me.

Ms. Laurie Scott: Thank you very much for coming here.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To the NDP: Ms. French.

Ms. Jennifer K. French: Thank you very much for coming. I thoroughly appreciate your neck of the woods.

I live in Oshawa, and so this is not something that I am very familiar with. If you don't mind breaking it down a little bit, I'm interested in having a better understanding of the invoice, as you had mentioned. How it is that the larger towns are able to benefit? If you can explain what the mechanism is—because I'm seeing here in your notes, which I appreciate, that you're saying that

Minister Lalonde has challenged lower-tier municipalities to resolve this issue—what it looks like and why that's problematic.

Mr. Donald Furniss: We've tried. In fairness to Minister Lalonde, she convened a conference call with the six municipalities. We discussed this.

The towns feel entitled to keep the system the way it was when it was done via the levy, before the formula was developed. They have no incentive to change. As I've said to many people, when the milk is free, you're not going to buy the cow.

This works out that the invoice comes in from the OPP to the district of Muskoka. It breaks it down in finite detail for each one of the six municipalities as to what their costs are. Our cost works out to about $2.7 million a year for the services that we used and the number of property owners that we have. That's the way the system works. It's based on the number of properties, with no differential between the properties, and the calls for service. When it comes to the district, they put it on the property tax levy because our assessments are higher. The bill that we get is about $6 million, rather than $2.7 million.

Ms. Jennifer K. French: So on the invoice, it's $2.7 million, but on your bill for the—

Mr. Donald Furniss: On the tax bill, our property tax—if we take all the property taxes and put them together, we have—

Ms. Jennifer K. French: The whole district, and then it's—

Mr. Donald Furniss: For the township of Muskoka Lakes, our taxpayers remit $6 million to the district rather than $2.7 million because—

Ms. Jennifer K. French: And you aren't—

Mr. Donald Furniss: If we got the invoice directly from the OPP—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Donald Furniss: —we would see a bill for $2.7 million, rather than $6 million. I don't know whether that explains it or not.

Ms. Jennifer K. French: We don't have that in Oshawa, and I'm glad to know that we don't. I look forward to their answer to you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. French. To the government side: Ms. Sandals.

Mrs. Liz Sandals: I'm trying to figure out whether Bill 175 says anything about how you pay for police services or police contracting, because it seems to be—we've been sitting here all day, and in all the debate I've heard in the House and all of the presentations we've heard from a variety of people, nobody has said anything about the details of police billing. Do you have any reason to believe that that's actually covered in this act?

Mr. Donald Furniss: I believe it's the way to correct it, and it's in the—

Mrs. Liz Sandals: So you're looking for a workaround for something else?

Mr. Donald Furniss: I'm looking for a change in the definitions of "municipality." And I'll read—

Mrs. Liz Sandals: In a police bill?

Mr. Donald Furniss: Yes. In the bill, it says:

"'municipality' means,

"(a) a single-tier municipality;

"(b) a lower-tier municipality in a county or in the county of Oxford;

"(c) a regional municipality, other than the county of Oxford; or

"(d) any other municipality that has constituted a municipal board under subsection 25(2)."

I'm asking that, under (c), a regional municipality be defined as "other than the county of Oxford and the district of Muskoka." I think that gets around the issue with regard to the invoicing going directly to the district. It comes to the individual lower tiers, which they calculate anyway.

Mrs. Liz Sandals: So who has the police service board?

Mr. Donald Furniss: I'm not sure. We don't. We're a non-contract municipality, so we don't have a police service board.

Mrs. Liz Sandals: So Bala's not a detachment?

Mr. Donald Furniss: It's a satellite office, but no. It's a non-contract. We have no contract with them. The OPP makes the decisions on exactly how the policing should be conducted. That's part of the Police Services Act. It is either section 10, which is contract policing where there's a police services board; or there's a section 5, which is a non-contract.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Donald Furniss: The vast majority of small municipalities are non-contract. They do not have a police services board.

Mrs. Liz Sandals: Because in the case of the exception that you're citing, you're citing Wellington, and they actually have a Wellington County Police Services Board.

Mr. Donald Furniss: What I'm saying is that on Wellington county and on SDG—Stormont, Dundas and Glengarry—they agree 100%. The other option was that you don't send the bill—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you, Mayor Furniss, for your deputation on behalf of the township of Muskoka Lakes.

This committee is now adjourned until Thursday, March 1, at 9 a.m., in this room.

The committee adjourned at 1751.

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